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Government of India's

Despatch on proposals for Constitutional Reform

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CALCUTTA: GOVERNMENT OF INDIA
CENTRAL PUBLICATION BRANCH

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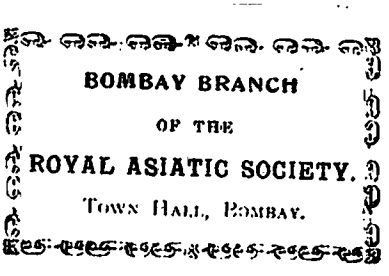

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No. 1 OF 1930.

GOVERNMENT OF INDIA.

REFORMS OFFICE.

To

THE RIGHT HONOURABLE WEDGWOOD BENN,
. D.S.O., D.F.C.,

His Majesty's Secretary of State for India.

Simla, the 20th September 1930.

SIR,

We have the honour to address you on the conclusion of the constitutional inquiry which has been conducted by the Indian Statutory Commission in accordance with the provisions of section 84-A of the Government of India Act, and to forward for the consideration of His Majesty's Government, as a preliminary to the discussions which will shortly take place at the Round Table Conference, our views on the further progress which might now be made towards the development of responsible government in India as an integral part of the British Empire. The report of the Indian Statutory Commission contains proposals of far-reaching significance and crucial importance, affording the most convenient, and indeed the inevitable, method of approach. We have further studied the reports of the provincial committees which were set up in connection with the Indian Statutory Commission, and we have derived great assistance from the valuable labours of the Indian Central Committee. We have, in addition to these documents, had the advantage of seeing the many suggestions made by individual thinkers in India and the scheme prepared by the All Parties Conference in 1928, commonly known as the Nehru report, which, though it has for various reasons ceased to occupy the forefront of the political stage, nevertheless remains as the most authoritative and detailed exposition of the views of constitutional nationalists that has yet been put forward. We have also paid due regard to the opinion

that has been expressed in India since the publication of the report of the Statutory Commission, and the most recent developments of this opinion will no doubt be placed before His Majesty's Government by the delegates at the Round Table Conference. Finally, we have received and transmit as enclosures to this despatch the weighty views expressed by local Governments.

The examination carried out by ourselves and the provincial Governments has been unavoidably handicapped by the circumstances in which it has been undertaken. The time available for reaching conclusions on matters at once so intricate and so important has been in itself short, and the attention of all Governments in India has been much occupied by the abnormal conditions arising from the civil disobedience movement, and in our own case from the situation on the North-West Frontier. Nevertheless, we have had the benefit of personal consultation with all the Governors of provinces, and have devoted much consideration to the various problems involved. We have not found it possible to deal in this despatch with all matters of detail, but we trust that our observations will be found to cover the main points.

POLITICAL FORCES IN INDIA.

2. **General observations.**—The solution of the great issues which now confront us is to be discussed at the Round Table Conference with a view to achieving the utmost possible measure of agreement between His Majesty's Government and the representatives of different parties and interests in India. It may therefore be convenient, before we come to our detailed observations, if we attempt to give some account of the political forces at work in India, the constitutional demands that are most commonly put forward, and the strength of opinion on which they rest. We recognize with the Statutory Commission the difficulty, particularly at a time of rapid change like the present, of estimating with accuracy these forces, and, set as we are amid many conflicting currents and much clash of old and new, of stating general conclusions. What we say, therefore, must be read subject to this caution. Complete agreement on general statements cannot be expected. We offer our observations merely as an attempt to draw a picture which in its broad outlines we believe to be accurate.

3. **The political classes. Tendencies making for unity of view.**—The Indian Statutory Commission in the able analysis of public opinion in India, with which the first

volume of their report concluded, pointed out that political thought and influence are, as is to be expected, principally concentrated in the towns. It is in the larger towns that are to be found those elements which give direction or active support to the political forces of the day. They consist of the professional classes, in particular lawyers, journalists and those connected with education ; an appreciable portion of the trading classes ; those engaged in clerical occupations ; the large number of students at the universities and colleges ; the melancholy army of those who having sacrificed much to go through the scholastic curriculum find at the end that their country offers them no employment : and, lastly, the small but growing body of educated women who are throwing themselves with enthusiasm into the new world of political affairs. These are perhaps the chief elements that go to make up what we may call the political classes. Their thought is profoundly influenced and unified by the writings of the press. It is no doubt a common characteristic of mankind all the world over that they tend to take their political views ready-made, and that with growing education those views are more and more moulded by the press. This characteristic is certainly very marked in India, and those who might be disposed to stand out against popular opinion as expounded in the press are not infrequently deterred by a sensitiveness to personal attack, which has not yet been blunted by long experience of public life. Journalism in India concentrates largely on the personal side, and the press is outspoken in its denunciation and ridicule of those who venture to express opinions in conflict with those generally accepted. There are other important factors which make for a prevailing unity of view on certain broad issues. The fact that the dominant power in India is in the hands of a foreign race cannot fail to offer to those who attack existing conditions the opportunity of a racial appeal. Again, a common desire for changes in the form of the Government acts as an inducement to preserve a united front, and to keep in the background such differences as exist. Finally, caste and family attachments are of peculiar strength, and the close intimacy of social relations promotes a common outlook.

4. **The commercial classes.**—We have mentioned above, as forming part of the political classes, the trading community. Like all generalizations this is open to qualification, and there may be differences of opinion as to the extent to which traders interest themselves in politics and what precise part pressure of different kinds plays in influencing their actions. But it can hardly be denied that the trading classes, which as a whole used in the past to be content to occupy themselves with their business, have been taking a more and

more active share in politics. Though men prominent in industry and commerce have for many years played their part in public affairs, the feeling that improvement of trade and industry is to be sought through political channels is a development of comparatively recent times. The extreme illustration of the way in which this idea has gripped the business community is to be found in the attitude of the commercial classes in Bombay during the present civil disobedience movement. After all allowance is made for the religious and emotional appeal of Mr. Gandhi's name for his own countrymen, the Gujeratis, who form such a large element in the life of Bombay city, it must be recognized that the commercial community of Bombay has in pursuit of political power been lending its support, both moral and material, to a movement in defiance of the law, which might have been expected to have no attraction for those whose interests depend on stable and peaceful conditions.

5. **The landholders and the agricultural classes.**—Passing to the more conservative elements in the population, the most important class is that of the larger landholders. In many parts of the country they still retain in their estates and villages a traditional authority, which, though it may now meet with some challenge, is yet one of the active forces in the life of the community. The spread of education and the influence of the press tend constantly to enlarge the number of landholders who might be included in what we have called the political classes. On the whole they remain at present a conservative force, conscious that their influence is likely to suffer from too rapid political changes, and beginning to realize that the defence of their interests requires a more active participation in public life. Below them in the agricultural world come the small landholders and the more substantial peasantry. This is a class about which it is peculiarly difficult to generalize. Broadly speaking, prosperity brings education, and education fosters political ideas. It does not follow that the ideas of this class necessarily coincide with those of the corresponding urban classes: indeed in the Punjab where the small landholders are a strong and increasing force there are signs of the development of a conflict of interests between them and the town dwellers. But whatever may be their views, the important point is that they have views, and cannot be regarded as forming part of the unthinking masses. The events of the last few years in Gujerat afford a striking illustration of the effects which this class can produce when guided in a political direction. Below this stratum come what may be called the agricultural masses, a political force of great potential importance, but in

normal times interested in little outside their own villages, their own immediate needs and conditions, and the hard struggle for existence. It would be fair to say that they have no informed conception of the political problems of India.

6. **Industrial labour.**—The towns too have their counterpart to what we have described as the agricultural masses. The bulk of industrial labour is ignorant and uneducated. Their surroundings are often primitive and insanitary, though steady efforts are being made to improve their lot. Living in towns they are more closely in contact with political movements than are the agricultural classes, but it is doubtful whether the ordinary political ideas make much appeal to them. In the towns too are to be found those lower strata of the population which can easily be worked up into mob demonstrations and violence. These elements and the industrial population have formed in recent years the objective of communist propaganda. In some of the larger industrial towns the doctrines of communism for a time made appreciable progress, particularly in Bombay. The movement has recently received a check, but it undoubtedly survives as a continual menace to orderly progress and the well-being of the community.

7. **Means of appeal to the masses.**—The general effect of the picture we have endeavoured to draw is that the classes affected by political opinion form a wide circle which is steadily expanding. It is continually establishing new contacts with those portions of the population which have hitherto been indifferent. But beyond the furthest range of the genuine influence of political reasoning and argument, those who wish to rouse the unpolitical masses are able to play on their feelings by appealing to the interests which are intense and vivid in their lives. First among these interests must be placed religion. It was the power of religion which enabled Mr. Gandhi during the non-cooperation movement ten years ago to rouse and sway the masses to a degree hitherto unknown in British India, and it is the veneration in which he is held for his ascetic life and moral teaching that gives him a great part of his popular appeal today. It was the power of religion working through the Khilafat movement, which for a time diverted the Muslim community from their traditional relations with the British Government. It was the appeal of religion, that recently threatened to destroy the work of the reformers in the Child Marriage Restraint Act, commonly known as the Sarda Act, and has been used to rouse the transfrontier Muslim tribes against a Government responsible for a measure which could have no application to them.

The second of the main interests through which the masses may be roused is the land. India is predominantly an agricultural country and the land is the basis of life for the great majority of the people. Consequently they may be immediately and profoundly affected by anything which touches the land, in particular land revenue and land tenures. Agrarian problems are seldom far below the surface.

The third method of approach to the masses is one that is still comparatively new and untried. It is broadly speaking the method of revolutionary communism, the appeal to the " have-nots ". There are signs in the armoury of political agitation of an increasing insistence on the facts of poverty in India, not with a view to constructive effort in remedy of the causes, but for the purpose of exciting feelings against the propertied classes and an alien Government. Not much progress has been made on these lines except in the industrial towns. But it is part of the policy of communism to spread its doctrines among the peasants.

8. **Sectional interests.**—In speaking hitherto of political interests we have had in mind chiefly those broad issues of public policy which group themselves round the demand for an increased measure of self-government, and we have tried to suggest the area over which interests of this kind are active. There are, however, other interests which make a genuine appeal to large bodies of people on lines other than those of nationalist politics. One of the marked effects of the present constitution, with its introduction of the forms of democratic government and its transfer of power not only in the provincial councils but in local bodies, has been the recognition of the fact that any group or section which has a common bond of interest can secure its objects only through organization. The binding forces of society outside the family are religion and caste, and there has been a definite quickening of communal and caste feeling, and a tendency for people to group themselves politically under these categories, which have for them a practical significance. It is felt that a common interest unites those who belong to a particular caste or a particular religion, and at a time when novel and broader ideas have not yet succeeded in establishing themselves, it is no doubt inevitable that the earlier manifestations of political awakening should among large sections of the population take a form that is familiar and can readily be appreciated. Local and provincial patriotisms also show unmistakable signs of development. All these indicate the real emergence of a public opinion and a general will, in a form however restricted, expressing themselves through the relations which most closely concern and interest the masses of the people. Forces of this kind reach elements of the

population which are untouched by the ideas of nationalism, but it must be remembered that they are always at hand to be utilized for nationalist ends.

9. **The growth of the nationalist spirit.**—In saying this we do not wish to minimize the extent of the genuine influence of nationalist ideas. There is no doubt that a considerable degree of national consciousness has been evoked among the educated classes as a whole. With the economic and educational development of the country have come, naturally and honourably enough, a greater self-respect, both individual and national, and a demand for equality of treatment and status with the West. The rise of Japan as a great Asiatic power supplied an early stimulus to this movement. Since then the stream of western thought in the present century has more and more brought India within the line of its current. Intercourse with the world grew. The influence of western education increased. Students in ever greater numbers went to England and returned. Older men, and even women, visited Europe more freely, and with a riper judgment compared other countries with their own. Conscious of the magnitude of her share in the Great War, India has watched with close interest nationalist movements in Afghanistan, Persia and China, while in another direction Ireland and Egypt have been examples which have constantly been before her eyes. All this has encouraged nationalism and democratic thought. One consequence of the growth of nationalist feeling has been to make Indian opinion exceedingly sensitive to any ill-informed judgments, which might appear to indicate a lack of trust, and to all that might be held to mark the status of India as inferior to that of other units in the Empire. India could hardly remain unaffected by what has gone on around her, while at home the constitution of 1919, however far it fell short of full self-government, had set her feet firmly on the path. It was therefore inevitable that this nationalist impetus should come, and it would be a grave mistake to under-estimate its force or to depreciate its value. It is a necessary condition of the building up of a wider and more vigorous life, and of that development of a self-governing India which from early times has been the ideal of the most far-seeing of its British administrators.

10. **The nationalist demand.**—The nationalist demand is for self-government and dominion status. It is couched in terms of British thought and British institutions, for it emanates from those who have been profoundly influenced by British ideas. The demand for self-government, stated in practical terms, is that India should be allowed to manage her own affairs both in the provinces and, subject to any temporary safeguards that may be requisite, at the centre. The claim to dominion status, so far as that can be separated

from ideas of self-government has perhaps a sentimental, but not on that account any less potent, aspect. The demand is not only that India should be enabled actually within necessary limits to settle her own affairs but that she should be publicly recognized before the eyes of the world as competent to settle them. Both these ideas are included by Indian opinion in that dominion status which the announcement by His Excellency the Viceroy on the 31st October, 1929, described as the natural issue of India's constitutional progress.

It is possible to trace in these political aspirations two separate trends of thought. The first is directed to the natural satisfaction of a national pride and national sentiment. The position of India in the Empire has been ambiguous. There are undeniable obstacles to the attainment of complete self-government at once. But are these obstacles to be used for the purpose of delaying the progress of India, or is a genuine attempt to be made to overcome them? Are differences of race and culture to keep India permanently in a position of inferiority to the great Dominions, or is a place to be found for her within the Empire which will satisfy her claims to equal treatment? To those, in whom such are the dominant ideas, the actual detailed means by which their ideas may be translated into fact are often not of great account. The second line of thought is directed to the fulfilment of concrete policies. Those who think on these lines have an essentially practical outlook and demand power in order to achieve certain definite objects.

11. **The extent of support for the nationalist demand.**— It happens that the course of the civil disobedience movement in the last few months has exhibited with sufficient plainness the strength of the nationalist forces and also their limitations. It is clear that they have on their side a substantial measure of support from educated Hindus of all classes, for large numbers of those who have not actually joined the movement, being repelled by its methods, have shown unmistakable sympathy with its aims. There is little doubt also that the minority communities to a large extent share in these broad nationalist aspirations, but it has become plain, if demonstration were needed, that generally speaking they are not without apprehensions of their position in a self-governing India, and they are concentrating attention on the protection of their rights and interests. It is assumed that for some time after the introduction of the new constitution politics are likely to remain on a communal basis. It will only be by a gradual process that the handling of practical problems of administration and policy will lead to the development of parties which will be divided on different

lines. The landed interests also are anxious about their future. The depressed classes, so far as they are beginning to develop some political consciousness, look with uneasiness at the prospect of Governments dominated by the higher castes. The great mass of the people, though, as we have said, capable of being galvanized into action by appeals on those matters which really interest them, regard with some indifference political changes which they do not understand. It is instructive to observe how during the present civil disobedience movement strong feeling has been aroused in the towns, and outside the towns in particular localities where either the conditions were peculiarly favourable, such as Gujerat, or where some local grievance could be exploited or some doubt sown as to the power of Government to maintain its authority. But looking at the country broadly, a political agitation of remarkable intensity and fervour has left the rural districts but little affected.

12. **The extremist element.**—In speaking hitherto of the nationalist forces we have had in mind primarily those elements in the movement which are prepared to look to constitutional advance within the Empire. But it must be recognized that there is, particularly among the younger men, a considerable body who have adopted independence not as a phrase but as a settled aim, who are fundamentally hostile to the British connection and who, though they may not all favour or believe in the efficacy of the methods of terrorism which many of them are prepared to pursue, are at any rate convinced that it is only by force applied in some form or other that they can achieve their end. With such men it would be idle to expect that any settlement is possible. They will oppose any agreement that may be reached, and the most that can be hoped is that gradually through experience of a constitution, which gives a considerable degree of self-government, they may come to realize that more can be achieved by working the constitution than by endeavouring to overthrow it.

13. **Non-official European opinion.**—We must not close our account of political opinion in India without giving some impression of the attitude of the non-official European community. The Statutory Commission have emphasized the important contribution which this community has made to the economic development of India and the influence it possesses in virtue of its widespread commercial activities. Prior to the introduction of the present constitution the interest of the community in politics was limited, but since 1919 it has realized the necessity of taking its full share in the political life of the country. Its entry into active politics has been marked by an increasingly liberal spirit towards Indian aspirations, and during the inquiry of the Statutory Commission

it showed itself ready to look with favour on proposals for political advance, subject to the provision of adequate safeguards for its rights and legitimate interests. The civil disobedience movement with its accompaniment of a boycott of British goods and British trade, through which it was hoped to bring pressure to bear on His Majesty's Government, has had marked reactions on those who felt themselves unfairly attacked and who resented this intrusion of politics into business. Resentment has been slow in gathering force, but recently European commercial opinion has shown unmistakably that it does not mean to allow itself to be coerced by these methods, and there has been some consequent stiffening of its attitude towards political advance.

14. **Conclusions.**—We have made above some attempt to describe the main political currents and forces that are moving over the formerly placid surface of India. If our reading of the situation is accurate, it is evident that the new constitution must be such as will take full account of these new forces. The time has passed when it was safe to assume the passive consent of the governed. The new system must be based as far as possible on the willing consent of a people whose political consciousness is steadily being awakened. There is still in the country a fundamental respect for authority. The new legislatures have established for themselves a position which is gradually coming to be understood and accepted by increasing numbers. Constitutional forms are for the most part respected and observed. The conditions for a substantial transfer of power are not in our view unfavourable, and we are convinced that the time has come when the broadest considerations of Imperial policy demand that we should spare no efforts, and even take some risks, in order to arrive at a constitutional solution which will give reasonable scope to the ideas and the aspirations that are moving India to-day.

GOVERNING PRINCIPLES.

15. **Opportunities for growth.**—The Indian Statutory Commission have at the beginning of the second volume of their report, before explaining their detailed proposals, set forth plainly the general principles on which their recommendations are based. We think it will be convenient if in the same way we make clear at the outset our general outlook on the constitutional problem and the principles which guide our conclusions. In the first place we are in full agreement with the view of the Commission that the new constitution should not be unduly rigid, and that it should allow of natural growth and diversity. For instance, it might ease processes of transition if formal

provisions which may require subsequent change could be drafted in such a way as not to involve legislation if and when it is desired to make the change. Again, within the general framework of the constitution in the provinces it might be possible to allow certain variations suggested by local conditions and favoured by local opinion. Finally, we should hope that both in the provinces and at the centre the constitution would give opportunities for development by practice and convention in accordance with actual needs and experience. The evils that flow from a temporary constitution have been fully set out by the Commission. Our aim must be to establish a constitution which should, as far as possible, contain within itself provision for its own development. We recognize however that that aim can be more fully attained in the provinces than is possible at the centre, where the ultimate form of the Government cannot as yet be so clearly discerned.

16. **The ultimate ideal—An all-India federation.**—The Commission have pictured the ultimate constitution of India as an all-India federation including not only British India, but also the Indian States. That is an ideal which we fully accept. There is an essential unity embracing the whole of India, which we hope will at some future time find expression in certain joint political institutions. But it is clear, as the Statutory Commission have been careful to point out, that this ideal is at present distant, and that the federation of Greater India to which they look forward cannot be artificially hastened. Much may be done to promote a more vivid sense of the unity of interests in many spheres between British India and the various States, and to develop the conception that there are matters of common concern which can best be treated in consultation. Nevertheless we must recognize that the time has not yet come when the general body of Indian States would be prepared to take a step so far-reaching in its character as to enter into any formal federal relations with British India. While, therefore, we are entirely at one with the Statutory Commission in holding that the ideal is a federation of all-India, and that this ideal should be clearly borne in mind when drawing the main outlines of the constitution of the new India, we must also recognize that the ideal is not likely to realize itself, save in its own due time. There is a certain danger that if we direct our gaze too fixedly to a distant future we may tend to overlook the needs of an urgent present. The main problem which must engage our attention is how British India may be developed in a manner which shall not only be consistent with the wider vision, but shall be appropriate to its own immediate requirements.

17. **Federal development in British India.**—We have no doubt that apart from the importance of designing a structure into which the States may later fit themselves, the conditions of British India itself point clearly to a federal development. India under the old system of bureaucratic government was administered on strongly centralized lines. With the first steps along the path of democracy it was necessary to relax control at the centre, and as the Statutory Commission point out, the completion of the policy contained in the announcement of August 20th, 1917, was pictured* by the authors of the Montagu-Chelmsford report in the form of " a congeries of self-governing Indian provinces associated for certain purposes under a responsible Government of India ". This remains in our opinion the only feasible policy for translating responsible institutions into a country containing so huge a population and such diverse elements. The acceptance of the federal idea for British India carries with it the obligation to develop as rapidly as possible the emergence of the self-governing units which must form the component parts of the federation. As the Commission point out, we shall be engaged on a process which is the reverse of normal. We do not start with self-governing states which agree to combine. We have already an administrative unity, and our first task is to decentralize with a view to permitting the development in the provinces of that degree of independent activity which should characterize the units of a federation. We are, therefore, in full agreement with the broad aim of the Commission to give to the provinces the maximum of autonomy consistent with the interest of India as a whole, and to make each province as far as possible mistress in its own house. But in following this policy we must be careful not to sacrifice the spirit of national unity which has gradually been developing under the centralized British administration. We require a vigorous central authority capable of sustaining the heavy burdens that necessarily fall upon it. It will be responsible for the defence of the country against external attack, and for the maintenance of the ultimate conditions of internal tranquillity ; for the finances of India as a whole and its credit in the markets of the world ; for its commercial and tariff policy ; and for all those matters of common concern which must be handled by a central Government. It should be in a position to mobilize the experience, talent and resources of all India for the more efficient pursuit of such objects as agricultural, medical or economic research. It must also possess powers of intervention if developments

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*Joint Report, para. 120.

in any province are such as to affect any other part of India or the administration of any central subject.

18. **The problem at the centre.**—The most difficult problem that confronts us is what form this central authority should take. It is clear that many of its functions must for some time continue to be exercised, as they are at present, in responsibility to the ultimate will of Parliament. The material foundations of modern India's life have been laid by the hand of Britain, and in the process British interests have come to be deeply engaged in India. A history to which Britain can look back with pride has left results which profoundly influence the present. The security and the prosperity of India represent an interest of Britain as well as of India, and an interest of such magnitude that Britain cannot afford to see it jeopardized. It might be argued that as any complete form of responsible government at the centre is, for the reasons we have just indicated, in present conditions impossible, no attempt can usefully be made to invest the Government with any popular sanction. A central Government should be constructed which would throughout the field of its functions be plainly responsible to Parliament alone, and in order that the executive might fulfil these responsibilities the legislature should be so constituted that it could be depended on to grant to the executive the money and the legislation required to carry out the policy of Parliament. The legislature would to some extent reflect opinion in India, and its views would be taken into account before decisions were reached. But when once the Government of India, in agreement with the Secretary of State, had reached conclusions, the Indian legislature would be content to implement them. Such a Government would no doubt be strong in the sense that it could count on getting its own way. But it would be wholly deprived of that element of strength which comes from the support of public opinion. We have set out this alternative quite frankly, for it represents one of the logical extremes, as complete self-government represents the other, and when proposals for some intermediate position are put forward and are attacked, as they well may be, on the ground that they may lead to divided counsels, it is important to realize clearly that the two extreme positions are impossible. The Statutory Commission had no doubt on this point. They stated that as a matter of practical politics there could be no question of going back to a previous stage by providing that the Assembly should have an official majority or by reducing its powers. On the contrary, they have addressed themselves to the task of considering how the machinery by which Indian political opinion expresses itself and exerts its influence at the centre

may be improved. We are in entire agreement with this view. The solution of our difficulties is not to be found by attenuating the channels through which Indian political opinion finds expression, but rather by harnessing that opinion to constructive work, so that what is at present a danger to the stability of Government may be converted into its main support. The Statutory Commission have put the point in words which we would desire to endorse:—

> "Nationalism is a force with immense power for good or evil, and the task in the future is to utilise that force for constructive ends. For nationalist movements that fail to find an appropriate outlet for their energies tend to mere strife and futility."

19. **Suggested conditions of a solution.**—The conditions of the problem suggest to us the importance of defining as clearly as possible the purposes which Britain must continue to safeguard in India, and making it plain that where those purposes are not concerned India should be free to manage her own affairs. The British Government must satisfy itself on certain essential points, for instance, that the defence of India from external attack, which rests, and for many years must continue to rest, largely on British troops, is fully assured; that relations with foreign States, with the ultimate possibilities of war which they involve, are conducted under its authority; that the conditions of internal security are maintained; that financial obligations are provided for and the requisite financial stability and credit of the country adequately secured; that reasonable treatment is accorded to minorities; and that unfair discrimination is not practised against any section of the community. In our opinion the ultimate control of these matters must in present conditions reside in the British Parliament. It would be understood that upon Parliament rests an obligation to secure certain definite purposes, and that for these express purposes it may be necessary for Parliament to intervene at any point in the administration of the central Government. Where these purposes are not affected, the policy and administration at the centre may properly be regarded as the concern of India alone. From this point of view the activities of the central Government might perhaps be viewed as falling into three categories. There would be, in the first place, those subjects in which the interest of Parliament might be expected to be continuous, such as defence, foreign affairs, the preservation of general tranquillity and the fulfilment of

*Volume II, para. 19.

financial obligations. Secondly, there would be subjects in which Parliament would be interested only occasionally, if and when it became clear that the policies pursued were affecting the purposes which Parliament wished to safeguard. We should be inclined to include in this category the methods of taxation by which the revenue of the central Government is raised, the tariff and commercial policy, and the management of railways. We should expect these matters normally to be directed in accordance with the views that commended themselves to the majority of Indians, but subject always to the possibility of Parliamentary intervention if any of the purposes of Parliament were threatened. Finally, there would be a range of subjects in which we should hope that a popular policy would seldom, if ever, come into conflict with the responsibilities of Parliament. Such would be, for instance, the general economic development of the country, industrial policy and questions of labour ; the ordinary administrative services which the central Government carries out, such as the management of the postal and telegraph systems or the customs administration ; the development of communications whether by land or air ; the co-ordination of those activities which form the primary concern of the provincial Governments, such as education, health and agriculture ; the promotion of social reform, and many other matters of great importance to the welfare of the community. Again, the selection of the representatives of India at Imperial conferences or at the League of Nations, and, subject to any overriding considerations of Imperial policy, the instructions given to them appear to us to be matters which might well be left to the determination of India. The relations of India with other parts of the Empire must naturally be of concern to His Majesty's Government. But we should hope to see a development of the existing practice whereby India is enabled to deal direct with the Governments of the Dominions in certain matters that affect her closely. Generally, in regard to the sphere in which the central Government might expect to be allowed to pursue its own policy, we think it is important to remember that it is proposed to hand over to responsible Governments in the provinces the administration of all the functions which most closely touch the life of the people. It seems to us evident that in some form or other comparable activities, which are the charge of the central Government, should also be administered in relation with the popular view, provided always that the broad purposes of Parliament which we have described above are not affected. The precise form by which public opinion may make itself felt in a Government, which must be prepared in certain matters to be guided ultimately by the will of Parliament, is the cardinal problem that confronts us. We offer our own

suggestions later, not with the idea that they are proof against criticism, but as indicating general lines of development which seem to us, on the basis of our own experience, less open to objection than others that we have seen. But whatever may be the plan adopted, we are convinced that no scheme of Government at the centre can work with success, unless it is recognized that Parliament and the Indian legislature have each their special contribution to make to the welfare of India, which is the joint purpose of both. Our aim should be a partnership in a common cause.

20. **Ultimate considerations.**—The Statutory Commission suggest that there may be a further complication in a problem already sufficiently complicated. They utter a caution against the development at this stage of institutions which might prejudice the ultimate form of the central Government. The caution is no doubt one that should be borne in mind. But caution in this respect must not be carried to the point of allowing ourselves to be immobilized from fear that any step we take may prove not to be leading us directly to our end. There is much to be done before that end can be reached, and, if we hope to reach it, we must be prepared to test by experience the forms and methods of that type of Government which will eventually emerge. It is clear that the aim for the centre as for the provinces must be the progressive realization of responsible government. There already exists in the Legislative Assembly an organ which as it develops will become one of the main instruments of responsible government at the centre. Responsibility will come as the result of the relations established between the legislature and the executive. We cannot at present foresee precisely what the ultimate development of those relations will be. But it seems to us plain that we should without delay set ourselves to the task of encouraging the establishment of effective relations between these two bodies, and thus prepare the foundation for the full responsible government which we desire to reach.

THE GOVERNORS' PROVINCES.

21. **Boundaries Commission.**—We come now to a consideration of the detailed proposals made by the Statutory Commission, and following the order in which they have approached the problem we shall deal first with the Governors' provinces. The first subject on which the Commission touch is the need for provincial redistribution. They suggest that the Government of India should set up, as a matter of urgent importance, a Boundaries Commission with a neutral chairman, to investigate the main cases in which provincial readjustment seems called for. The

two particular cases to which the Commission themselves give their attention are Orissa and Sind.

The claim of the Oriyas to a separate province of their own is of long-standing. In their letter the Government of Bihar and Orissa have drawn attention to the need of making early investigation into all relevant factors with a view to satisfying the very natural desire of the Oriya-speaking peoples to possess an administration of their own. The claim of Sind to be a self-contained unit has become increasingly prominent in recent years. The preponderance of the local population is Muslim, and their claim to separation from the Bombay Presidency has been ardently advocated. Neither on Orissa nor on Sind are we yet in a position to tender final advice, but we urge that enquiries be set on foot at the earliest possible date. We should not contemplate entrusting the task to a single Boundaries Commission. The two problems are not connected, and we would suggest investigation by two separate committees. We wish to emphasize the need for expedition in reaching conclusions on these two outstanding cases, which are respectively of fundamental importance to the two provinces of Bihar and Orissa and of Bombay, as they now exist, in order that, if new arrangements are required, they may be introduced simultaneously with the new constitution. We conceive that the Sind Committee will be concerned primarily with the administrative and financial aspects of separation, for the question is not one of boundaries. In Orissa on the other hand difficult questions of future boundaries will be directly in issue.

Other possible readjustments of provincial boundaries should in our view stand over, until opinion has more clearly expressed itself. It would be for the new administrations themselves to take up such cases as they arise.

We note in passing that the separation of Burma may involve readjustments of the boundary between that province and Assam. To this reference will be found in the letter of the Government of Assam.

22. **The abolition of dyarchy.**—In agreement with the great mass of opinion in this country, both official and non-official, we accept in principle the recommendations of the Commission for the reconstitution of the provincial Governments. In so doing, we do not associate ourselves with those who pass an unqualified condemnation on the existing dispositions. On the contrary we pay our tribute to those who planned and those who have worked the provincial constitutions. Dyarchy in the provinces was never intended to be more than a transitional device, a first step on the difficult

road towards a completely responsible system. With few exceptions goodwill has been forthcoming, and an earnest endeavour has been made to translate into action the opportunities which the constitution has offered. Provincial Governments, whether on the reserved or the transferred sides, can take reasonable pride in their administrative record. Policy may sometimes have been at fault ; results may not always have balanced expectations ; but on a broad view much has been accomplished that might have been difficult of achievement under the older unreformed system. We are clear, however, that a stage has now been reached in the political growth of the provinces at which the next step forward should be taken boldly. We agree with the Commission that the time has come to remove the boundary set up between departments of which ministers may take charge and those from which they are excluded. To reserve law and order would be to concentrate attack on the most delicate part of the machinery. The arguments in favour of transfer have been authoritatively and, to our mind, conclusively stated by the Statutory Commission and the Indian Central Committee. We do not disguise from ourselves the risks inherent in so great a change. But, subject to the necessary safeguards which the Commission have suggested, we are prepared to see provincial administration in all subjects entrusted to responsible ministers, linked together in a common accountability for their policy, and operating in relations with popular legislatures from which the official element will have disappeared, and in which the nominated element will have been reduced to the smallest proportions.

On the main issue that a great step forward should be taken, the unanimity of the provincial Governments is complete. Differences of opinion on details merely anticipate what we ourselves consider to be probable, namely, that the working of the new system may not follow identical lines in all provinces. A single rigid system might hamper, and not assist, the ready expansion of free institutions. Some freedom in the constitution is needed in order to facilitate local growth in forms suited to local conditions.

The provincial reports sufficiently indicate the provincial view and we do not ourselves propose at this stage to discuss in detail the recommendations of the Commission on all provincial points. There are, however, certain matters on which comment is required, and to these we now turn.

Provincial legislatures.

23. **Their life-time.**—There is no dissent from the proposition that the normal statutory life of provincial legisla-

tures should be raised from three to five years. We join with the provincial Governments in accepting the proposal.

24. **Their size.**—The Commission criticize the size of the present councils and find them too small. They suggest that unless an increase in the size of the electorate is accompanied by an increase in the number of constituencies the reality of representation may be prejudiced. They remark that increased membership of the provincial councils will facilitate their plan of representation at the centre. The recommendation which they make is that in the more important provinces there should be an immediate increase to a figure between 200 and 250.

We accept in principle the suggestion that there should be a material enlargement of the provincial legislatures suitable to the new conditions, but we would be reluctant to propose precise figures reached on *a priori* grounds. The matter should, we consider, be included within the terms of reference to the Franchise Committee, in order that the size of each provincial legislature may be decided on the basis of ascertained needs. Any substantial increase in the electorate will certainly necessitate an addition to the number of the constituencies in each province. The provincial Governments recognize the need for enlarging the legislative councils ; but their general view appears to be that so large an increase as the Commission have in mind may be unsuitable to their conditions.

For the reasons given by the Commission it will still be necessary for some time that the Governor should retain a strictly limited power to nominate, but we doubt whether, when the Franchise Committee have completed their labours, it will be found necessary to give a power of nomination quite on the scale which the Commission have in view. We agree that no special provision should be made for the election of women.

25. **The disappearance of the official bloc.**—The presence of an official bloc has been a noticeable feature of the present dyarchical system, and essential to its working. We agree that with the abolition of dyarchy, the official bloc should no longer be retained. With the exception of a small nominated element, the provincial legislatures will be wholly elected ; free play will be given to the formation of parties, from which we may expect to emerge correct principles of ministerial responsibility.

26. **Constituent powers.**—The question of granting to provincial legislatures constituent powers raises difficult issues, both constitutional and practical. The Commission

suggest that after ten years the provincial councils should have the power to set in train certain proposals for change by the method of "constitutional resolution", but the changes would be limited to those affecting the electoral law. The enforcement of a constitutional resolution would be dependent on the grant of a certificate by the Governor that the resolution reflected the general opinion of the province and of any community specially affected, and would require also the concurrence of the Governor General.

We welcome the proposals of the Commission to give to the provincial legislatures this measure of constituent power. Were it practicable to do so, we would gladly enlarge its scope. But with one possible addition, to which we shall presently refer, for the creation of a second chamber, we see grave difficulties in giving this procedure any wider extension. Even within the ambit of the electoral law, the distribution by statutory provision of the balance of political power between the representatives of different communities and interests in fixed proportions immensely complicates the possible effects of electoral change. The initial dispositions will now be made under the authority of Parliament itself, after consultation with the representatives of British India assembled in meeting at the Round Table Conference. To throw open those dispositions to early revision by local authority would, from the start, invite conflict and might prejudice the endeavour to initiate a fully responsible system of Government in the provinces. It is reasonable that the electoral system set up at the beginning of the reforms should rest on the assumption that it will endure at least until new political conditions are established, after experience of the new Governments has been obtained. For these reasons we do not anticipate that Indian opinion will resent the provision that no "constitutional resolution" may be passed by a provincial legislature until after the lapse of some years from the inauguration of the new system. With regard to the scope and freedom of the constituent powers, it is clear that these must remain under some limitation, at least until the country at large is prepared to abide by what we regard as a fundamental principle of responsible government, namely, the validity of a majority decision. While, therefore, we are anxious to lose no opportunity to place within the constitution the seeds of its own growth, we agree that, subject to the addition which we have suggested above, and which we now discuss, the range of the constituent power accorded to the provincial legislatures should be as proposed by the Commission.

27. **Second chambers.**—The arguments for and against second chambers in the provinces have been fully set out by

the Commission, who have themselves not found it possible to make a unanimous recommendation one way or the other. There was a similar diversity of opinion among the members of the Indian Central Committee. Among the provincial Governments, Madras, Bombay, the Punjab, the Central Provinces, and Assam do not desire second chambers. We understand that this represents in all cases the unanimous view of both sides of the Governments, except only that in Bombay one member of Council supports a second chamber for that province. All members of the Government of the United Provinces are in favour of the establishment of a second chamber in that province. In Bihar and Orissa also the local Government, without any dissentient member, advocate a second chamber. Opinion in the Government of Bengal is divided. They state in their letter that some members are strongly in favour of a second chamber, and that the remainder are doubtful. In these circumstances the local Government express themselves as having decided to maintain the opinion in favour of a second chamber which they expressed in their memorandum to the Statutory Commission in 1929.

The matter seems to us to be peculiarly one in which regard should be had to local conditions. We would not propose that in any province a second chamber should be made a condition of advance. Where local opinion favours and local conditions seem to require a second chamber, it should in our view be set up and incorporated in the new constitution. The problem has now been fully investigated by the Statutory Commission, and we have before us the considered views of each provincial Government. Their knowledge of local conditions and local requirements is necessarily more intimate than our own. We therefore accept the recommendations of the Governments of Madras, Bombay, the Punjab, the Central Provinces and Assam that there should be no second chambers in those provinces. Similarly we accept the recommendations of the Governments of Bengal, the United Provinces, and Bihar and Orissa that in those provinces there should be a second chamber. If effect is given to their wishes, we should suggest that the manner in which the upper house should in each instance be composed in those three provinces should be left to further investigation by the Franchise Committee in the light of the suggestions which the three Governments have put forward.

While we agree that in five of the eight provinces, there should on the institution of the new constitution, be a single chamber legislature, we associate ourselves with the view expressed by the Government of Madras that future circum-

stances may create a demand for a second chamber. We accordingly accept the suggestion of the local Government that the subject should be included among those matters on which after ten years a " constitutional resolution " may be passed, and would apply the provision to all provinces, leaving it open to a provincial council to recommend the creation of a second chamber where none exists or the abolition of one that has been set up. We do not take it as certain that no provincial council will pass a resolution to substitute for a unicameral a bicameral system. The success or failure of second chambers in those provinces where they are established will, we have no doubt, materially shape political opinion in those provinces which retain a single chamber legislature at the outset of the new system. We would suggest that a resolution dealing with the creation or abolition of a second chamber should require to be supported by not less than three-fourths of the votes of the legislature instead of the proportion of two-thirds suggested by the Commission for other matters. If it were proposed to abolish the upper house, the decision might be taken in joint session, and the resolution if certified by the Governor should in our view be submitted by the Governor General to the Secretary of State and laid before Parliament for its approval.

The suggestion of the Commission to set up a small expert revising body to which legislative proposals could be submitted between the report and the third reading stages has attracted little support.

28. **The franchise.**—We agree with the Commission that with the establishment of responsible Cabinets in the provinces, the present franchise for the provincial legislatures will be too restricted. We accordingly accept their recommendation that there should now be such extension of the franchise as is reasonably practicable, and that the investigation of this matter should be entrusted to a specially constituted Franchise Committee under an impartial and experienced chairman. The arguments used* by the Commission leave no room for doubt that the immediate adoption of adult suffrage is wholly impracticable. The precise extent to which the franchise can now be widened is a matter on which, in our opinion, it is not possible to form conclusions until the problem has been investigated by the Franchise Committee.

There is under the present system no uniformity of the franchise qualification in the different provinces ; and it is clear that while the franchise continues to rest for the most part on a property qualification directly related to land revenue payments, no precisely uniform system is possible.

*Volume II, para. 105.

The views expressed by the provincial Governments suggest that the extension of the franchise may well be greater in some provinces than in others. The Government of Bombay consider that the franchise should be widened to the extent of trebling the electorate, but this is further than most provincial Governments are prepared to go. Some indeed enter a caution against the too rapid enfranchisement of ignorant and illiterate voters simultaneously with the introduction of a new system of government. Our general view is that it might be unwise to tie down the Franchise Committee to any pre-arranged percentage of enfranchisement. We would be glad if it were found possible, from province to province, to reach the enfranchisement of 10 per cent. of the total population recommended by the Commission, but we would leave the Franchise Committee free, for valid special reasons which they may find to exist, to adjust their recommendations to local conditions.

In the course of their investigations the Committee should be directed to examine in each province the feasibility of introducing an additional qualification based on education. The Commission's suggestion of this new qualification has received a considerable measure of support from some provincial Governments, but from others has not escaped criticism. For example, the Governments of the United Provinces and the Punjab question the soundness of the qualification ; and though it may be suitable in some provinces, it is possible that it may not be appropriate in all.

The Commission recommend that the Committee should be instructed to have due regard to the respective claims of urban and rural areas, and to the rights of women as well as of men. It is further suggested that the Committee should devise such qualifications as would secure as far as possible the same proportion of voters to population in different communities. At the same time the Commission deprecate different sets of qualifications for voters of different religions or races. We have no doubt that the Franchise Committee will keep these important considerations in view. The Committee will not however be able to treat as first principles both these recommendations, namely, that there should be in each community the same proportion of voters to population, and that the franchise qualification for all communities should run on the same level. In some cases their results may be found to be mutually contradictory, and we anticipate that some adjustment by compromise will be needed in their application. It has been remarked on past occasions that, after religion and race, the boundary between town and country is

the greatest dividing line that runs through the Indian people. In more than one province the Committee may find that some readjustment is necessary of the present representation respectively of urban and rural areas and we attach great importance to securing genuine and effective representation of rural interests. With the broader aspects of female suffrage we shall deal in our next paragraph.

In agreement with the provincial Governments, we would prefer that Parliament should not commit itself to the appointment after fifteen years of a second Franchise Committee.

29. **Female suffrage.**—In the first volume of their report the Commission devote a separate chapter to the increasingly important part now being played by the women of India in social reform and generally in public affairs. They consider that the women's movement holds the key of progress and observe that the results it may achieve are incalculably great. This estimate of the importance of the women's movement leads the Commission to conclude that India cannot reach the position to which it aspires in the world until its women play their due part as educated citizens.

The suggestions for the enfranchisement of women made by the Commission in the second volume of their report follow directly from the conclusion which they reach in their first volume. The Commission observe* that while provincial legislatures in exercising the option allowed to them of enfranchising women on the same terms as men have made a gesture of high significance, it has remained only a gesture, because few women in India own property in their own right. In consequence, under the present franchise the proportion of women as voters is still extremely low. In order to correct their proportion the Commission recommend the addition of two special qualifications for women voters ; namely, being the wife over 25 years of age of a man who has a property qualification to vote ; and, secondly, being a widow over that age whose husband at the time of his death was so qualified. In addition, under the Commission's scheme, women over 21 years of age who possess the suggested educational qualification would also be enfranchised in their own right.

These suggestions have called forth much criticism and we doubt whether they would be acceptable to any considerable section of opinion in the country. The arguments against the Commission's proposals have been well set out in the report of the Government of the United Provinces, in

*Volume I, para. 203.

which it is suggested that in the existing conditions one practical result of the proposal would be to give to the family of the low caste Hindu voter, whose wife is able to go to the poll, a second vote ; and thus give them twice the voting power of many of the higher castes, and also of many of the Muslims, whose wives would be debarred from recording their votes by the operation of social custom. At the time of the last reforms the enfranchisement of women was considered by the Joint Select Committee of Parliament, who felt that it was not desirable that they should attempt to settle the question themselves. Their view was that the enfranchisement of women goes deep into the social system and susceptibilities of India, and is therefore a question which can only prudently be decided in accordance with the wishes of Indians constitutionally expressed. It was in pursuance of that view that provision was made in the electoral rules of each province leaving the decision on female suffrage to the provincial legislature. In their replies to the present reference the majority of provincial Governments have taken somewhat the same line. We agree with them that it would be unwise to attempt to force upon India measures for the enfranchisement of great numbers of women. We suggest, therefore, that this matter should continue to be left to the decision of the provincial councils, and we consider that the subject can well be dealt with by them in the constitutional resolution to which we have referred. So long however as the principle set out by the Joint Select Committee of Parliament is maintained, we think it to be a proper course that the suggestions of the Commission for the special enfranchisement of women should be further investigated by the Franchise Committee.

Communal representation.

30. **The Hindu-Muslim impasse.**—The problem of communal representation has been rightly described by the Commission as a highly controversial and most important subject. On its solution will depend in no small measure the success or failure of the new constitution.

The Commission's report contains a carefully prepared and closely reasoned examination of the issues at stake. The conclusion reached is that in the absence of agreement between the Hindus and the Muslims, the Commission* " are compelled to assume in this matter, a continuance of separate communal electorates ". If there are to be communal electorates, the outstanding question left for decision is the proportion of seats in the various provincial councils to be set aside for Muslim members. After expressing a hope that a

*Volume II, para. 75.

renewed effort will be made between the two communities themselves to reach an accommodation, the Commission offer several general expressions of their opinion. They hold that in view of the weakness of the Muslim minority in six out of the eight provinces, the present scale of weightage in favour of Muslims in those six provinces may properly be maintained. On the other hand, the Commission range themselves definitely against the full claim put forward by the Muslim community that, while retaining their weightage in the six provinces, the present proportion of seats secured to Muslims by separate electorates in Bengal and in the Punjab should be enlarged to figures proportionate to their ratio of population. Seized with this dilemma, the Commission offer the Muslim community a choice between two alternatives; either, so it would appear, representation on a basis of their population in Bengal and the Punjab, but with the loss of their weightage in the six provinces; or joint electorates by mutual consent in Bengal and the Punjab and the existing scale of weightage elsewhere. There has been no indication hitherto on the part of the Muslim community of any disposition to accept either of the two alternatives suggested for their consideration by the Commission. Nor has the community given any support to the scheme outlined in appendix VIII of the report for substituting for communal electorates a plan which purports to combine joint electorates with the exclusion of candidates unacceptable to the community affected.

While the Commission hold the view that, in the absence of agreement between Hindus and Muslims, communal electorates must remain, the majority of the Indian Central Committee believe that wider considerations must override the wishes of particular communities, and recommend that communal electorates should be abolished. Their proposal is that in provinces other than Bengal seats should be reserved in joint electorates either on a population basis or on their voting strength, whichever may be more favourable to them, and that they should be permitted to contest other seats in general constituencies beyond the number actually reserved for them. The Committee proposed that in the Punjab the Hindu and Sikh minorities should be given the privilege which they recommended for Muslim minorities elsewhere. But for Bengal they suggested that there should be no separate electorates and no reservation of seats, and that the two communities should vote together in a joint electorate. These majority recommendations of the Committee were extremely distasteful to two out of the three Muslim members of the Committee, and drew from them a vigorous minute of dissent.

Lastly, we take this opportunity to refer to the solution put forward in the Nehru report, whose authors took the line, first, that separate electorates must be completely discarded as a condition precedent to any rational system of representation ; second, that the reservation of seats for majority communities is indefensible ; and, third, that for Muslim minorities there should be reservation of seats, when demanded, in strict proportion to their population, with the right to contest additional seats for a fixed period of ten years. This solution was no more successful than other expedients which have been proposed ; and its failure to attract Muslim support was one of the reasons why the Nehru report was subsequently disowned by its own promoters.

Since the publication of the report of the Statutory Commission little progress has been made by way of negotiation between the two communities. We recognize the need for an agreed solution, and would be reluctant in this despatch to write anything that might hamper agreement between the representatives of the two great communities themselves. At the same time we cannot disguise from ourselves that the prospects of agreement seem remote. When the last reforms were introduced, the Lucknow pact held the field, and throughout the proceedings of the Joint Select Committee was given binding force. That pact is no longer acceptable to either party ; and if the decision of the problem be left to Parliament, unaided by agreement between the parties, no easy solution can be found on the lines of a maintenance of the *status quo*. The change effected by the withdrawal of the official bloc is also important, and brings the communal question into greater prominence, for with the disappearance of the neutral element communities are driven to rely exclusively on their own representation. Their relative strength, therefore, becomes a matter of still closer interest.

We do not propose to traverse the arguments, theoretical and practical, against communal electorates. We are fully conscious that separate communal representation assumes a special significance as the responsibility of the executive to the legislature grows more complete. At the same time in agreement with the Statutory Commission and with every provincial Government, we are constrained to the opinion that the privilege which they now possess cannot and should not be taken away from the Muslim community against their wish. In provinces other than Bengal and the Punjab, every provincial Government agrees that Muslims should retain their existing weightage if they desire it, and with this expression of opinion we agree. With regard to Bengal, the local Government state that there is irreconcilable dis-

agreement between their Hindu and Muslim members. The European members of the Government have come to the conclusion that representation on the basis of population is the fairest method of distributing the seats in the general constituencies ; and that any weightage that is to be given to the non-Muhammadans in respect of their wealth, education or position should be allowed for in the special constituencies. In the Punjab the position is singularly complicated owing to the rival claims of the three communities ; the Muslims, the Hindus, and the Sikhs. The official members of the Punjab have worked out a carefully balanced scheme for the composition of the new provincial council, which gives the Muslims a majority of two over Hindus and Sikhs combined, and a proportion of 49 per cent. of the house as a whole. The scheme satisfies neither the Muslim nor the Hindu nor the Sikh members of the Government, but in our view merits consideration, subject to remarks which we shall presently make.

On the more general aspects of this baffling problem, we consider that it may be a legitimate grievance to deprive Muslims in the Punjab and Bengal of representation in the councils in proportion to their population merely because of the weightage allowed to Muslim minorities elsewhere. At the same time we appreciate the objections to communal majorities in the legislature guaranteed on a population basis at the wish of a majority community through communal constituencies. Various suggestions have been put forward for meeting these objections. Assuming legislatures returned from general *plus* special constituencies, it has been suggested that in Bengal and the Punjab the general communal constituencies should be so distributed as to give no community by that means alone a clear majority in the legislature as a whole. The majority community could be given communal constituencies on the population basis, provided they did not constitute a majority in the legislature, to obtain which it would have to succeed in returning members in elections to some, at least, of the special non-communal constituencies. Another suggestion is that put forward by the official members of the Government of the Punjab to which we have already referred, where the Muslims though having a majority of two over Hindus and Sikhs combined would not command a majority in the house, the balance consisting of two seats allotted to Europeans and one each to Indian Christians and Labour. A third suggestion is that communal discriminations though applied to electors should not extend to candidates. Thus a Hindu would be eligible under the electoral rules to represent a Muslim constituency and *vice versa*.

The existing differences between the voting strength and the numerical strength of the various communities lie

at the root of the present difficulties. When with the extension of the franchise these differences disappear and the voting strength more correctly reflects the population, the justification for communal electorates for majority communities would cease. The perplexity which now presents itself of deciding between the apparently irreconcilable claims of rival communities would have passed away. In this view the adjustments now to be made may be regarded as serving what we hope is merely a temporary purpose. We agree, as already stated, that the privilege of communal electorates where they now exist should not be taken away without the consent of the community concerned, and that such consent should require the votes of two-thirds of the members in the legislature of the community concerned. But we attach importance to providing machinery in the Act for the disappearance of such electorates and for their future replacement by normal systems of representation more suited to responsible self-government on democratic lines.

31. **The representation of the Sikhs.**—We have referred briefly in the preceding paragraph to the bearing of Sikh representation on the adjustment of communal proportions in the Punjab legislative council between the Hindus and the Muslims. The problem arises only in the Punjab. In no other province are the Sikhs given separate representation. Their communal electorates in the Punjab date from the last reforms. The authors of the Joint Report, whose condemnation of communal electorates is well known, made an exception in the case of the Sikhs on the ground that in the Punjab they are a distinct and important people, who supply a gallant and valuable element to the Indian army, but who are everywhere in a minority and for that reason go virtually unrepresented. They accordingly proposed to extend to the Sikhs, and to the Sikhs alone, the system already adopted in the case of the Muslims. The Sikh claim was specially considered by the Franchise Committee of 1918-19 and they were given 12 out of 94 seats in the Punjab legislative council. They have consistently expressed dissatisfaction with this proportion, and Sikh leaders have adhered to a claim that they should have not less than 30 per cent. of the total seats. The present position, as we understand it, is that the Sikhs are prepared to accept joint electorates provided that the Muslims agree, but that if communal electorates are retained in any province they should be assured in the Punjab of representation on the basis at least of their voting strength. As the voting strength of the Sikhs on the present property qualification is considerably in excess of their proportion of the population, this claim could be accepted only at the expense of the Muslims or the

Hindus. The proportion given in the scheme prepared by the official members of the Government of the Punjab, though higher than the population basis, is less than the voting strength of the Sikh community. In his minute of dissent the Sikh Minister of the Punjab has expressed a warning that the arrangement proposed by the official members is not acceptable to two powerful communities, and that they are not prepared to surrender on the point. Put in its crudest form, the claim made by the Sikhs is that the British conquered the Punjab, not from the Muslims, but from themselves; and that if responsible self-government is now introduced, they will not submit to a system which places the Muslims in a permanent majority over both Hindus and Sikhs combined. We have given careful consideration to these difficulties, but so far as the Sikhs are concerned are unable to propound any better solution than that put forward by the official members of the Government of the Punjab.

32. **The representation of Europeans.**—With the other classes of communal representation we can deal more briefly. There can be no doubt that for the representation of Europeans their existing separate electorates must be maintained. We accept the principle that their representation should, if possible, be in its present proportion, and in provinces where they at present rely on nomination they should, in our view, if this be found practicable, be returned by their own electorates.

33. **The representation of Anglo-Indians.**—We agree that as regards the number of Anglo-Indian seats the object in view is to secure to the community an adequate opportunity of making its views known in the legislature through suitable representatives; and that no question arises of trying to allocate seats on the basis of such factors as population and political influence. The community is faced with very special problems of its own. Its main interests may be summed up as entry to the services and educational facilities. So far as concerns the former the field of employment which is of particular interest to the Anglo-Indians is to be found under the central Government, especially in the Railways and the Telegraph department, and in a later passage we refer specifically to the possibility of giving such protection as may be practicable to their position on the railways. But their educational problems fall within the provincial sphere, and we regard it as important that they should be enabled, particularly from this point of view, to make known their needs and their case. Subject to further investigation by the Franchise Committee, we are disposed to accept the suggestions of the Commission for increasing the total number of

seats allotted to Anglo-Indians, and to think that wherever possible their representation should for the present be by separate electorates.

34. **The representation of Indian Christians.**—The Commission state themselves to have been impressed by the fact that a representative deputation of Indian Christians which met them in Delhi evinced their readiness to be merged in general electorates, and for that reason they have recorded a decided preference for the reservation of seats in the case of Indian Christians in place of separate electorates. The present position is that Indian Christians have separate electorates in the Madras Presidency where the community is particularly strong and returns five members ; everywhere else any representation they have is by nomination. From representations made to us since the publication of the Commission's report, we understand that the Indian Christians of Madras are far from willing to surrender their separate electorates, and we endorse the view of the Government of Madras that the community in that province should not be deprived of its privilege without its consent. Provincial replies indicate that in some provinces reservation of seats may present considerable difficulties, and that where separate electorates cannot be formed, the Indian Christian community may still need to rely for its representation on nomination by the Governor.

35. **The representation of the depressed classes.**—The suggestions made by the Commission for the representation of the depressed classes have been much criticized by the provincial Governments. The difficulty of framing for each province a definition of the " depressed classes " is probably inherent in any scheme for the special representation of this class other than by nomination ; but the Commission's proposals place a peculiarly embarrassing duty on the Governor to certify candidates authorized to stand for the depressed classes ; and the proportion of representation which the Commission suggest, namely, in the ratio of three quarters of the proportion of the depressed classes population to the total population of the electoral area of the provinces, seems likely to be unduly high. The Government of the United Provinces have calculated that in that province the Commission's proposal would result in the return to the provincial legislature of no less than forty members in place of the single nominated member who at present represents the community. The whole problem of the representation of the depressed classes will require careful investigation by the Franchise Committee ; and at this stage we only wish to make plain that in our view their adequate representation should be secured by the best means that may be found practicable. Though there are some

differences of opinion within the community, recent meetings of depressed classes associations have re-affirmed their belief in separate electorates.

36. **The representation of non-Brahmins in Madras.**—We agree that the reservation of seats for non-Brahmins in Madras is no longer necessary.

37. **The representation of Mahrattas in Bombay.**—The recommendation of the Commission is that the time has not yet come for the abolition of reserved seats for Mahrattas; but that it may be possible to abandon reservation in some of the constituencies in which seats have hitherto been set aside for the Mahratta community. The local Government have expressed no opinion, and, pending further examination by the Franchise Committee, we retain an open mind.

Special representation.

38. **The universities.**—We come now to special, as distinct from communal, representation. The Indian university seats date from the time of Lord Dufferin; when they were instituted in the anxiety to make use of any corporate body of opinion that then existed. When the present reforms were introduced Lord Chelmsford's Government found some difficulty in reconciling themselves to their retention. The Statutory Commission, though with considerable hesitation, recommend that they should be preserved, but the number of seats should not be increased. All provincial Governments, except the Government of Bihar and Orissa, agree in retaining university representation, and the same view is taken by the Indian Central Committee. In face of this evidence we are prepared to accept the continuance of special university representation, but we take the opportunity to express agreement with the suggestion of the Indian Central Committee, which is supported also by the Governments of Madras and of Bengal, that in order to secure a more adequate representation of learning and the return of representatives possessing special academic qualifications, the franchise in these special constituencies should not extend to graduates generally, but should be confined to members of the Senate or the governing body. We would observe that this change would not disfranchise the general body of graduates, who may be expected to retain their votes in general constituencies, even in the absence of the new literary franchise qualification which the Commission have proposed.

39. **The great landholders.**—The Commission deal at some length with the special representation of the great landholders, and come to the conclusion that since persons possessing the special franchise qualifications prescribed for

landholders' constituencies have been returned in considerable numbers for general constituencies, their special representation is no longer required and should be abolished. The recommendation of the Statutory Commission conflicts with the view expressed by the Indian Central Committee that this class of special representation should be retained. Every provincial Government, except the Government of Assam where there is no special representation of landholders, agrees with the Indian Central Committee, and considers that the special representation of the great landholders is still needed, in view both of the position of that class in the country and of the steadying effect which it is likely to have in the new legislatures. The suggested abolition of their special representation has been received with feelings of resentment and dismay by the great landholders themselves, and one of the first steps which they took on learning of the proposal was to form a representative delegation to present to His Excellency the Viceroy an address, containing a weighty protest against the withdrawal of their present privilege. Particular objection has been taken by the landlords themselves to the suggestion made by the Commission that, in the event of their failing to secure representation equivalent to the present number of their special constituencies, their representation should be obtained by nomination.

We have ourselves no hesitation in holding that this form of special representation should continue. Both the arguments and the statistics used by the Commission might to our mind have been used with equal effect to destroy the special representation either of commerce or of the universities, both of which the Commission retain. We have no reason to think that there was any intention on the part either of the authors of the Joint Report or of the Franchise Committee, over which Lord Southborough presided, to restrict the landholders to representation by their special constituencies. On the contrary, there were at the time frequent expressions of the view that their entry into political life should be encouraged. The success in general constituencies of persons possessing the special landlord qualification can rightly be regarded as a healthy sign of a greater readiness on the part of a conservative class to recognize their obligations and take up political responsibilities under an increasingly popular system of Government. But prejudices still survive, and unless special constituencies are retained, many leaders of this important class may still be unwilling to expose themselves to the hazards of election by general constituencies; and those landholders who are elected by general constituencies may prove to be unrepresentative of the landholding interest.

Such questions as tenancy and land revenue measures may be expected to occupy more prominently the attention of the provincial legislatures in the near future, and in the controversies likely to ensue the landlords can reasonably claim that they should not be deprived of their special representation, at a time when the extension of the franchise may well increase the difficulty of their securing representation on a general register.

We do not commit ourselves to the acceptance of any principle that in the new legislatures the special representation of the great landholders should be proportionate to their present scale. One difficulty in accepting a principle of that kind is that the electorates for these special constituencies are necessarily small, and cannot be widened by a lowering of the qualification without destroying the value of the representation given. The general view of the provincial Governments is that there should be some increase in the number of landlord seats. The Government of Bombay and the Government of the Punjab each suggest one additional seat to the present representation of landholders in those provinces. In Bengal the extent of the representation of landholders in the lower house may depend upon the establishment of a second chamber, and similar considerations may govern the special representation of landholders in the United Provinces and in Bihar and Orissa. The precise extent of their representation is therefore clearly a matter for investigation by the Franchise Committee. But on the broad issue whether or not there should be special constituencies for the representation of the great landholders, we have no hesitation in accepting the view of the Indian Central Committee and of the provincial Governments that they should be retained, both in the central and in the provincial legislatures.

40. **Commerce and industry.**—We endorse the proposal of the Statutory Commission that the special representation of commerce and industry should be preserved. We see no reason to differ from the detailed recommendations which some provincial Governments have made in this matter.

41. **Labour.**—The special representation of labour is an exceedingly difficult problem. When the present reforms were introduced, schemes were drawn up by the Governments of Bombay and Bengal in response to a recommendation of the Joint Select Committee of Parliament to form special constituencies for wage-earners in the cities of Bombay and Calcutta. On further consideration the Joint Select Committee of Parliament decided that it would be impolitic to persist in an experiment which those best qualified to judge regarded with considerable misgivings, and in

consequence the representation of labour was left to nomination by the Governor, six seats being set aside for that purpose, and distributed between the provinces of Bombay, Bengal, Bihar and Orissa and Assam.

The problem was next considered in 1924 by the Reforms Enquiry Committee which recommended that the representation of factory labourers in the provincial councils should be increased, and that the local Governments should be asked to formulate proposals. The Committee expressed the opinion that, if possible, representation should be by election. On examination it was not found possible to introduce an elective system in any province, and the action ultimately taken on the Committee's recommendation was merely to add four nominated seats, two in Bombay, one in the Punjab and one in the Central Provinces, giving a total of ten seats in the nine provinces including Burma. It was recognized at the time that criticism might be directed to the fact that the only response to the recommendation of the Committee was to increase from six to ten the number of seats definitely assigned to the representation of labour in a country which claims a prominent place in the industrial countries of the world and whose legislatures are avowedly designed to give separate representation to separate classes of interests. It was felt however that in spite of the actual and potential importance of India as an industrial factor in the world's economy, her workers were not then sufficiently organized or sufficiently differentiated in aim or outlook from the general population to warrant the creation of artificial means whereby they might be provided with representatives in the legislatures. The conclusion therefore in 1926, as in 1920, was that all that was necessary or possible was to enable the point of view of the still immature workers' organizations to be effectively voiced by competent exponents who had made it their special study.

The Indian Central Committee have recognized that unorganized labour must remain unrepresented until the franchise has been lowered to a sufficient degree to enable them to win representation in the general constituencies; but, holding the view that India is on the threshold of a great industrial development, they regard it as of the highest importance that means should be provided by which organized labour may be enabled to make its wants known in the legislatures through representatives of its own. The Committee accordingly proposed to set apart eighteen seats for the representation of organized labour in the eight provinces and recommended that in Bombay four seats should be reserved for labour in four general constituencies, and that in the

other provinces representation should be by separate electorates.

The Statutory Commission proceed with greater caution and, Major Attlee dissenting, suggest that, pending further investigation by the Royal Commission on Labour in India, in every province the Governor should have the duty of drawing up rules for securing labour representation by the means which in existing circumstances are the best available. If the Governor finds that for the present he must still resort to nomination, he should consider whether there are suitable labour organizations which he might consult before making his choice.

We accept the principle that the special representation of labour should remain, at least until such time as with the extension of the franchise the great majority of their numbers qualify for a vote in the ordinary constituencies. We would prefer that their representation should where possible be by election ; but are bound to admit that the possibilities of this still seem remote. Three provincial Governments, namely, those of the United Provinces, the Punjab and Assam, make it clear that they see no present alternative to nomination. We are ourselves reluctant to throw the whole burden of decision on the Governor in person and would recommend that the problem should be further examined by the Franchise Committee, before decisions are taken either as to the mode or the extent of labour representation on the new councils.

Provincial executives.

42. **Unitary Cabinets.**—We accept the recommendations of the Statutory Commission that the provincial Cabinet should be unitary with every member accepting responsibility for the whole policy of the provincial Government. We agree that provision should be made that the only vote of censure which could be proposed would be one against the ministry as a whole carried after due notice. We also endorse the suggestion that the existing scale of salaries should be alterable only by a provincial statute.

43. **Official ministers.**—More difficult questions arise out of the suggestion that when forming his Cabinet the Governor acting under the superintendence and control of the Governor General, should decide whether or not to include in it one or more non-elected persons. The Commission propose that such persons, if included within the Cabinet, should become *ex-officio* members of the legislature and they have indicated* that they would, so they conceive, ordinarily be experienced officials.

There is some variety of view in the reports of the provincial Governments on this proposal. The Government

*Volume II, para. 48.

of Madras would provide that no person other than an elected member of the legislature should be appointed to the ministry except on the recommendation or with the consent of the chief minister. The Government of Bombay would exclude ministers appointed from outside the council on the ground that their inclusion would be contrary to the principle of responsible government. There are differences of opinion among the members of the Government of Bengal; some favour a statutory rule requiring the presence of an official in the ministry; others prefer to leave it to the discretion of the Governor; and others again are opposed to any official element in the Cabinet. On the other hand all members of the Government of Bengal are agreed that, save an official, no person who is not already a member of the legislature should be eligible for inclusion in the ministry. Some go further, and would make nominated members ineligible. The Government of the United Provinces have made an exceedingly interesting examination of the implications and possible consequences of an official minister in the Cabinet. His Excellency the Governor and the service member of his council favour inclusion, but the other members of the Government consider that a principal secretary would be more in keeping with the general scheme of the new constitution. All members of the Government of the Punjab, official and non-official with the exception of one minister, would specifically exclude any official minister. In the course of their comments the official members of the Government state that this is a feature of the proposed constitution which has been specially singled out for attack, and that it has been and will be used as an argument to prove that the responsibility of the Cabinet is intended to be unreal. In order that no ground should be left for this allegation, the official members of the Government of the Punjab are prepared to abandon any official element in the future Cabinets, provided that other provision be made to secure to the Governor the advice which he will need. A very similar line of reasoning is found in the letter of the Government of Assam, who state that the mere retention in the hands of the Governor of the power to appoint an official is likely to be misunderstood and to engender suspicions detrimental to the acceptance and working of the new constitution. The Government of Bihar and Orissa hold that owing to difficulties in its operation the appointment of an official minister will be the exception rather than the rule, and that this device for making official experience available for the ministry and for the Governor will not ordinarily be effective. They would, however, accept the provision in the discretionary form suggested by the Commission to meet exceptional circumstances, for instance, the temporary appointment of an official to avoid an

interregnum. The preponderance of opinion in the Government of the Central Provinces is that all members of the Cabinet should be chosen from the legislature.

The suggestion that the appointment to the Cabinet of one or more officials should be discretionary with the Governor has certainly been distasteful to Indian opinion, and we are impressed by the general consensus of opinion in the replies of the provincial Governments that an official minister would be difficult to maintain in office against the wishes of his colleagues and would be ineffective. We have no hesitation in holding that there should be no statutory requirement for the inclusion of an official in the provincial Cabinets, or in the Cabinet of any particular Governor's province. We would be reluctant, however, to depart from the recommendation of the Commission that there should be a discretionary power with the Governor to make such appointment should circumstances so require. We can conceive a situation arising in more than one province in which ministers may welcome an official colleague possessing wide administrative experience, and in times of communal tension ministers may themselves wish to place a particular portfolio in the charge of an official, whose impartiality would be above suspicion. In Bengal there is the risk, to which the local Government refer, that it may be difficult to find non-officials willing to take on themselves the responsibilities for law and order in the province. We have no doubt that, before appointing an official, the Governor would first have informed himself fully of the probable attitude of the other members of the Cabinet, and on the whole we think it likely that an official member would seldom be appointed, and that, if appointed, his appointment would rest on general consent. But for the reasons which we have given we agree with the Commission that the Governor should be free to exercise discretion in the matter. A suspicion exists that the appointment of officials may be used to restrict the scope of responsible self government, but we have endeavoured to explain that, in our view of the use which the Governor will make of his discretionary power, such suspicion is unfounded. If, however, it was thought desirable, we would agree to a suitable provision on the point being inserted in the Instrument of Instructions to Governors.

One of our colleagues, however, finds himself unable to accept the position which we have adopted on this matter, and considers that the Governor should possess no power to appoint official ministers, whose presence in the Cabinet our colleague finds himself unable to reconcile with the principle of joint responsibility.

44. **Non-elected non-officials.**—With regard to the inclusion in the Cabinet of non-official non-elected persons, we consider that objections can be met by provision on the lines of sub-section (2) of section 52 of the present Government of India Act that, save an official, no minister shall hold office for a longer period than six months, unless he is or becomes an elected member of the legislature.

45. **Communal representation in the Cabinet.**—Minority communities attach great importance to securing representation in the Cabinet, and disappointment has been expressed at the conclusion* reached by the Commission that it is impossible to have any rigid and formal provision in the matter. The claim that Muslims should be guaranteed Cabinet representation was put forward as one of the demands of that community in the resolution of the all-India Muslim Conference which met at Delhi, on the 1st January 1929, and the counterpart to the Muslim demand is found in claims put forward, for instance, on behalf of Hindus and Sikhs in the Punjab. The problem is discussed at some length in the letter of the Government of the United Provinces, and interesting references to the attitude of the Sikhs and of the Hindus in the Punjab will be found in the minutes of the Hindu and Sikh Ministers respectively of that province.

We agree that for the reasons which the Commission have given it will be difficult to make statutory provision guaranteeing representation in the Cabinets to minority communities. The view which we take is that in practice the desire for peaceful administration will in the natural course of events lead the majority to enlist representation from other communities in the formation of the Cabinet, and further inducement in the same direction will be derived from the parliamentary value of minority groups. We believe, therefore, that where the minority is influential and commands support in the legislature, it will be able with some confidence to count upon Cabinet representation ; where the minority is small, the prospect of its representation must necessarily be more doubtful. We do not fail to recognize the strength of minority apprehensions regarding the composition of the new executives and for that reason we are prepared, if no other means of meeting these apprehensions can be suggested, to give a general support to the suggestion put forward by the Government of the United Provinces that the Instrument of Instructions to the Governor should include an obligation to attempt to secure representation of a minority community

*Volume II, para. 55.

in the Cabinet, where such minority is in his opinion of sufficient importance to warrant it.

46. **The chief minister.**—It follows that we do not contemplate leaving the selection of ministers to a chief minister. The formation of the Cabinet must be recognized to be a responsibility imposed by the constitution on the Governor. The position has to our mind been correctly stated by the Statutory Commission. We share with the Commission the expectation that there will ordinarily be a chief minister whom the Governor would consult before appointing other ministers. But the minority problem makes it essential that there should be no constitutional requirement for the appointment of a chief minister in all provinces. The misgivings of the minorities would be immensely aggravated if the function of the Governor were to be limited to selecting a chief minister and leaving to him the choice of his colleagues. That method might be found appropriate in some provinces where the minority problem is not acute and where political conditions are comparatively advanced, and we have no doubt that there, while the constitutional responsibility will continue to rest with the Governor, the precise relationship between the Governor and the chief minister in the formation of the Cabinet would rapidly come to be governed by conventions locally established. In other provinces where conditions may be less favourable, public feeling may require that the selection of each member of the Cabinet patently rests with the Governor alone, though exercised, as it must inevitably be, after he has first informed himself of the state of political opinion and the relative position of the various parties in the legislature. In such provinces we anticipate that Cabinets may for some years to come require to be formed definitely on coalition lines.

47. **The Cabinet secretary.**—The improbability on which we have remarked that reliance can be placed on the presence in the provincial executives of official ministers has directed increased attention on the part of the provincial Governments to the suggestion made by the Commission* that there should be established a post of secretary to the Cabinet held by a civil servant who would not only be responsible for keeping the record, but would have direct access to the Governor. The official members of the Government of the Punjab have taken up this suggestion, and give it prominence as a condition of their assent to the abandonment of official ministers. They contemplate a principal secretary who would also be the Cabinet secretary, but with enlarged functions and in close

*Volume II, para. 51.

touch with the Governor, the ministers and all departments of the secretariat. Similar support is given to the proposal by those members of the Government of the United Provinces who do not favour an official minister. On the other hand, the Government of Madras, while they support the appointment of a Cabinet secretary, place him definitely under the control of the chief minister and allow him no access to the Governor without the knowledge of the ministry. In other provinces recognition of the need for supplying the Governor with competent official advice has produced suggestions which, while they coincide in their intention, differ in their form. The Government of Assam advocate the appointment of a financial adviser of high standing, who would be the head of the Civil Service and outside Cabinet. The view personally expressed by His Excellency the Governor of Assam is that he regards the presence of a financial adviser as a necessary condition for the establishment of a fully responsible Cabinet, and that it is only on the understanding that such an appointment would be guaranteed that he is able himself to recommend for Assam the appointment of a ministry entirely drawn from the legislative council. The suggestion is put forward not only on the ground that it will be necessary to supply expert advice on financial and revenue matters to individual members of the Cabinet or the Cabinet as a whole, but to ensure that the Governor shall be able to rely on administrative experience of a high order in the event of a breakdown, and to secure the efficient working of the permanent civil service. The views of the Government of the Central Provinces tend somewhat in the same direction. They hold that the need for expert advice to the ministry and the advantage of having an official of standing in close touch with the Governor and his ministers are patent. They suggest that the best plan for securing this advantage will be to arrange for a financial or revenue adviser or Commissioner, who might attend Cabinet discussions when his presence was desired by the Governor or the ministers, and they believe that such a plan would be preferable to that of a Cabinet secretary standing in some special relation to the Governor. The Government of Bengal support the Commission's proposals for the appointment of a Cabinet secretary, but recognize that the Governor may still be left in ignorance of important facts affecting the administration. They suggest that the Governor should have an expert adviser on his personal staff. The need for supplying the Governor with special official assistance in the discharge of the onerous responsibilities which will pass to him under the new system is nowhere more strongly expressed than in the letter of the Government of Bihar and Orissa. The duties likely to

fall to the expert adviser are discussed, and His Excellency the Governor presses for an appointment of that kind, to ensure that the Governor is in a position to carry out his duties.

Through these comments there runs a double line of thought. The first takes the point that the Cabinet itself will require assistance not only for the maintenance of its record, but also that the members may have the benefit of past experience of Cabinet administration secured by a continuing post. The second line of thought relates to what we regard as a distinct problem, namely, the necessity of giving the Governor the assistance of experienced advice, more particularly for the due exercise of his overriding powers.

Of these two requirements the first could, in our view, be met on the lines suggested by the Commission for the appointment of a Cabinet secretary. Such an officer would, as the Commission propose,* " have direct access to the Governor, so that, whether His Excellency was present at a given meeting or not, he would be kept impartially and fully informed of the course of business ". He would, as in England, be the servant of the Cabinet ; his function would be to assist the Cabinet in the discharge of its duties and, though it would of course be open to him to approach the Governor on any matter, he would not do so without the cognizance of ministers.

48. **Official advisers to the Governor.**—We recognize the need which Governors will feel for experienced advice in the exercise of their overriding powers. There may be special circumstances in some provinces requiring special treatment, but, as a general practice, we contemplate, and to this we attach importance, that the various secretaries to Government will continue to have access to the Governor. We anticipate that ministers will themselves approve this continuance of the present practice but will expect, and in our opinion reasonably, that they should be kept informed of any communications made to the Governor by their secretaries. We are indeed doubtful whether it is possible in this matter of supplying the Governor with experienced advice to make precise or specific provision. The Governor must be free to obtain advice from any source that he may select, and much will, of course, depend on the Governor's own personality. We would assume that the local practice which may vary from province to province would grow and develop in such direction as local circumstances may render appropriate.

* Volume II, para. 51.

49. **The overriding powers of the Governor.**—It is generally recognized that for the reasons given by the Commission* it would be neither practicable nor desirable at once to create the position that the Governor should be bound on all subjects by the advice of his ministers. The need for overriding powers is admitted by all who appreciate the ultimate responsibilties, which Parliament must still retain for the administration of Government in the provinces, and not the least of relevant considerations is the reliance which the minority communities will repose in the Governor for their protection.

Under the present constitution the powers of the Governor to override his ministers are theoretically unrestricted. With the exception of the Governments of Bombay and of the Central Provinces all the provincial Governments accept the views expressed by the Commission, first, that in the new provincial constitutions the Governor should, on the administrative side, be given statutory power to direct that action should be taken otherwise than in accordance with the advice of his ministry only for certain specified purposes ; and, second, that in all such matters the Governor should be subject to the superintendence, direction and control of the Governor General. Similarly it is agreed that the purposes for which the Governor is given overriding powers should be statutorily expressed.

The view taken by the Government of Bombay is that, while the Governor appears to be the only authority to whom overriding powers can be entrusted, his responsibilities are so great that with him must remain all powers not expressly transferred to the ministry and to the legislature and that it might be preferable not to embody these powers in the rigid language of the statute. On the other hand, the argument developed by the Government of the Central Provinces questions the use of overriding powers over the normal administration of a ministry, and suggests that they should be left vague so as to cover only the obligations imposed on the Governor by his Instrument of Instructions.

The view which we are disposed to take is that the overriding powers of the Governor should be defined in the statute, but that no closer definition should be attempted than is made

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*Volume II, para. 49.

by the Commission.* If the powers were to be so precisely specified as to be capable of judicial interpretation, a tendency might arise of subjecting all proceedings of the ministry to the test of the overriding powers of the Governor. Any such tendency would in our view be wholly inconsistent with the spirit of the new constitution, and, if pursued, might well prejudice the entire scheme of the reforms. We are aware that some sections of Indian opinion with which one of us is in agreement would favour restricting the first of the overriding powers mentioned by the Commission to the subject specifically of law and order. But those who hold that view appear to us to overlook the essential point that the purposes of intervention are not necessarily co-terminous with the administration of particular subjects. At the same time we wish to make it clear that we anticipate that the use by the Governor of his overriding powers will be infrequent and reserved for exceptional occasions, when no other course seems appropriate.

There is one new category of overriding powers suggested by the official members of the Government of the Punjab on which some brief comment is needed. The proposal which they make is that the Governor should possess special powers to secure the financial stability of the province, and they explain that they have in view some power to defer too hasty action, in the interest of the broader financial issues. The particular instances which they cite are the relinquishment of substantial revenue, or the acceptance of large schemes involving progressive recurring revenue expenditure, which could clearly only be financed eventually by recourse to extraordinary receipts or loans. It seems clear that, though in such matters the use by the Governor of overriding powers might be due to an anxiety to maintain the financial stability of the province, in effect an exceedingly wide measure of administrative interference would be involved. We are inclined to agree with the Commission that such a power of intervention is undesirable, and should prefer to rely on the Governor's persuasion and guidance to prevent overhasty action.

We agree with the suggestion of the Commission† that the Governor's power of securing the passage of rejected bills by certification and his power of restoring rejected grants

*Volume II, para. 50. †Volume II, paras. 97—98.

should correspond to the range of his special powers to control executive action.

50. **Fundamental rights.**—It has been represented to us that the overriding powers of the Governor for the protection of minorities will be ineffective, and we have been strongly pressed to provide separately for this purpose by a recital in the Act of fundamental rights. In the time at our disposal it has not been possible for us to examine the question fully or in particular to investigate the difficulties, which arise both as regards the definition of such rights, and the selection of means by which they could be made effective. The subjects to be covered by these rights are by no means matter of agreement. Their nature would require careful scrutiny. If they are expressed in the constitution merely as so many general political maxims, they are unlikely to serve the purpose for which they are framed. On the other hand, at first sight there seem to us to be objections to making at least some of such rights justiciable. If administrative decisions of all kinds can be taken to the courts, grave disadvantages and embarrassments may be expected to ensue. There may, however, be some *via media* between these two alternatives. We refrain therefore at this stage from pressing our consideration to a final conclusion, but we remark that, owing to the importance which the minority communities in particular attach to this matter, it is likely to form the subject of keen discussion at the Round Table Conference.

51. **Emergency provision.**—While Parliament remains responsible that there are Governments in the provinces, and that they function, special provision is needed in the constitution for a state of emergency in the event of a breakdown of the constitution. There has been little criticism of the suggestions made by the Commission* to vest the Governors with administrative powers for that purpose and, subject to further examination in detail, we accept their proposals in principle. We remark, however, that under the present constitution Governors do not possess powers corresponding with those of the Governor General to make and promulgate ordinances, and it has been suggested to us that if powers of that description were now to be given to them, it might be proper to make the use of the power, except in sudden emergencies, subject to the consent of the Governor General. We put forward this suggestion for your consideration.

52. **Backward tracts.**—The provision in section 52-A of the Government of India Act empowering the Governor

*Volume II, paras. 65, 98—99.

General in Council to declare any territory in British India to be a backward tract dates from the last reforms. It originates in the recommendation made* in the Joint Report that the typically backward tracts, where the people are primitive and there is no material on which to found political institutions, should be excluded from the jurisdiction of the reformed provincial Governments and administered by the head of the province. Much care and consideration were spent both in the selection of areas declared backward tracts, and in the arrangements made for their administration. Broadly speaking, the result was the creation of two classes of backward tracts, those wholly and those partially excluded from the jurisdiction of the reformed Governments. In the latter there are considerable variations in the degree of their exclusion.

The Commission recognize that there are areas the inhabitants of which are in a lower state of civilization than their neighbours ; and agree that for such areas special arrangements are necessary. Their first suggestion is that it may be found that in one or two cases an area now notified as a backward tract is so advanced that its special treatment need not be continued. Action on this suggestion has already been taken. There are no backward tracts in Bombay, the United Provinces or the Central Provinces. The Government of the Punjab state that there is now no need for the special treatment of Spiti and Lahaul. The Government of Bengal are investigating whether the Darjeeling district should continue to be in any degree excluded from the normal constitutional arrangements of the province, and will report the results of their enquiries later. The Government of Bihar and Orissa state that there are parts of Chota Nagpur, of the Santal Parganas and perhaps of the Sambalpur and Angul districts, which need not be retained in a special position. In Assam, as in Bihar and Orissa, the backward tracts are of particular importance. While most of the tracts now notified must continue to receive special treatment, there is some difference of opinion about isolated areas. The opinion in Madras is that the existing backward tracts cannot yet be brought entirely under the normal administration. We welcome the re-examination of the position which provincial Governments have made and are making at the instance of the Commission, and accept the principle of reducing the number and area of the backward tracts wherever possible. There must, however, still remain large territories which all are agreed must for some time to come remain outside the scope of the reforms. For the future administration of these areas the Commission have made important proposals.

*Joint Report, para. 199.

The Commission appear to have been impressed primarily with the need to provide adequate funds for the development of the backward tracts, the most extensive of which fall within the poorest provinces, and reach the conclusion* that "only if responsibility for the backward tracts is entrusted to the centre, does it appear likely that it will be adequately discharged". They fortify that conclusion by the argument that if unitary ministries replace dyarchical executives, the backward tracts should on constitutional grounds be excluded from the area of responsible government. It is suggested that they should not, like the minor administrations, be placed entirely outside the borders of the Governors' provinces, but the central Government should use the agency of the Governors for their administration, and by resort to its control of the all-India services should enlist from the adjacent provinces the services of officials familiar with local methods. The Commission contemplate that members of the provincial, and possibly of the subordinate, services should also, when expedient, be obtained from the provinces. The arrangements proposed for partially excluded areas contain even greater complications. Partially excluded areas would continue to send representatives to the local legislature, and the Governor, as the agent of the central Government, would decide how far local legislation should apply to them. The extent to which the Governor will act in consultation with ministers is to be regulated by rules made presumably by central authority. These tracts would be under the same system of taxation for provincial purposes as the rest of the province, and the provincial revenues raised within them must be spent upon them. Any additional funds that were needed would come from central revenues.

We see grave difficulties in these proposals, which have been criticized by several local Governments. For the administration of the Chittagong Hill Tracts, the Government of Bengal prefer to retain the present system with such modifications as may be needed. A similar view is held by the Government of Madras for the future administration of the backward tracts situated in that province. It is true that the Government of Assam support centralization, but in their case the prospect of transferring from the province to the centre the cost of administration has probably been a considerable inducement. At the same time the Government of Assam entirely withhold their support from

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* Volume II, para. 129.

the Commission's scheme of partial exclusion. The arguments against centralization seem to us to have been well set out by the Government of Bihar and Orissa. There is little reason to think that the Federal Assembly will be any more ready to grant funds than the legislature of the province within whose boundaries the particular backward tracts are situated. The comment of the local Government that the Assembly will have little knowledge of and take no interest in these areas is in our belief likely to be justified. We doubt moreover whether the Governor of a province could appropriately be required to act as agent on behalf of the central Government. The financial arguments which were so prominently in the mind of the Commission seem to us less conclusive in view of the proposals which the Commission have themselves made for placing the new provincial Governments in possession of more adequate funds at the expense, it may be, of central revenues. We fully appreciate the various points which the Commission have* taken ; but we think it not unfair to comment that the simple form of administration suitable to the backward tracts *per se* involves a lower scale of expenditure than that of the more developed districts. When their needs rise to the same level, the time for treating them as backward tracts will have passed. Our present disposition, therefore, is to maintain the link between the provinces and the backward tracts without interposing central responsibility for their administration. It may be necessary to retain some areas under the sole administrative control of the Governor. In others where the jurisdiction of ministers and of the provincial legislature has already been admitted, the Governor may need no more than a general power to control the application of central and provincial enactments. The whole subject will, however, require further detailed consideration. In Assam where the area of the backward tracts is so great, special arrangements may be needed and the Commission's scheme of centralization may be found to be the best solution. In Bihar and Orissa the problem is likely to be connected with the question of the formation of a separate province for the Oriyas, and should be considered by the Committee charged with the investigation of that problem.

On a minor point, we have no objection to the Commission's proposal that the somewhat derogatory term " backward tract " should be discarded in the statute, and give place to the more colourless designation " excluded area ",

*Volume II, para. 129.

53. **The High Courts.**—Amongst subjects not intimately connected with constitutional issues of fundamental importance are the recommendations made* by the Commission that the charges of all High Courts, including the Chief Court of Oudh and the courts of the Judicial Commissioners of the Central Provinces and Sind, should be put upon central revenues, and that the administrative control of all such courts should be exercised by the Government of India and not by provincial Governments. We have made a summary examination of these proposals and have received in very general terms the views of the courts and the local Governments concerned. The material before us however is not sufficient for the adequate consideration of these recommendations, the financial and administrative aspects of which, intricate in themselves, will require detailed exploration, in consultation with local Governments, in the light of the decisions reached on the larger constitutional issues, and we are of opinion that they could be more conveniently approached when those decisions have been arrived at. As regards the appointment of judges, we agree that while permanent appointments to High Court judgeships should continue to be made by His Majesty the King, all other appointments to High Court judgeships and all appointments to judgeships in courts of lower status exercising similar jurisdiction should be made by the Governor General in Council. We presume that the distinction which appears to be drawn at the end of paragraph 346 of the report between the appointment of additional judges by the central Government and the appointment of temporary judges by the Governor General is not deliberate, and that the proposal is intended to be as expressed above, *i.e.*, only a slight extension of the existing practice in so far as High Courts (other than the High Court of Calcutta to which officiating appointments are already made by the Governor General in Council), and the Chief Court of Oudh, are concerned. From the reference in the first part of this paragraph to the courts of Judicial Commissioners we assume that the recommendation applies to appointments to these courts also, and we agree that no differentiation should be made in the manner of appointing judges to High Courts (except in the case of permanent appointments which have always stood upon a different footing), and to other courts which discharge most of the functions of a High Court. We contemplate that in all cases where appointments are made by the Governor General in Council they will only be made after close consultation with the Governor.

PROVINCIAL FINANCE.

54. **Control of finance in the provinces.**—The proposals of the Indian Statutory Commission contemplate the grant to

*Volume II, para. 345.

the provincial Governments of very full powers in respect of finance. External control by the central Government is confined to the control of borrowing and to such control over provincial taxation as will follow from the powers of superintendence which the Commission contemplate* that the centre should exercise ; and the extraordinary powers of the Governor on the financial side are only designed to enable him to secure supply over the limited field in which he holds in reserve special powers, or to carry out directions which he may receive from the centre. The Commission have deliberately rejected the suggestion that the Governor should be granted special powers to secure the financial stability of the province. For the reasons which we have already explained we concur in that conclusion. In accepting the Commission's proposals generally we desire to add that the maintenance of a strong Finance Department in each province is a matter of great importance, and the special position accorded to the Finance Department in Part III of the Devolution rules should be retained and specifically provided for in the new constitution.

55. **Sir Walter Layton's scheme : its connection with the general constitutional structure.**—It is convenient to deal at this point with the proposals made† by Sir Walter Layton, which have as their main object the provision of adequate financial resources for the provincial Governments.

The working of these proposals might be facilitated by the recommendations which the Commission have made for the reconstitution of the Assembly as a Federal Assembly, indirectly elected through provincial legislatures. We shall consider elsewhere how far these recommendations, which are primarily based on other grounds, are capable of adoption. Here we would only remark that if the Commission's proposals for representation of the provinces in the Assembly were to be altered, it would not be impossible to devise other methods for giving representatives of the provinces a joint opportunity to consider the voting of taxes for the provincial fund. A suggestion which might be considered in that event is that the provincial councils should elect representatives to form a separate inter-provincial council, which should consider proposals for "provincial fund" taxation before their submission to the vote of the central legislature. We recognize that this alternative does not possess the direct advantages of Sir Walter Layton's scheme and we put it forward for consideration only in the event

*Vol. II, para. 182. †Vol. II, Chapter VIII.

of indirect election to the Federal Assembly not being approved.

56. **Preliminary comments on Sir Walter Layton's scheme.** —Turning now to the purely financial aspects of Sir Walter Layton's scheme, we have, speaking generally, approached it with a predisposition in its favour, mainly because it aims at the establishment of a uniform basis for the financial settlements with the provinces. Such an arrangement is in every way preferable, if it can be shown to be workable in practice, to what seems to us the only other alternative, a separate settlement with individual provinces on a basis of needs. It is, however, essential to examine it closely, in order to test its practical working, and we find it necessary to make two preliminary comments. In the first place, the scheme as a whole contemplates within ten years the abandonment by the central Government of about 12 crores of their revenue and the imposition by the provinces of 24 crores of new taxation. It is conceived in a spirit of optimism which we find it difficult to share, having regard to the general economic conditions, with which India and indeed the world in general are likely to be faced in the years immediately before us, to certain omissions in Sir Walter Layton's survey of the central Government's position to which we shall refer again, and to the reluctance which may well be felt by the representatives of the people in the provinces to impose new burdens of this magnitude. Of the new items of taxation suggested, the proposed tax on agricultural incomes involves highly controversial issues, and the terminal tax would, if introduced generally on the scale proposed, be open to serious objection from the economic standpoint. Sir Walter Layton has also, in our opinion, overestimated receipts, especially the revenue likely to be obtained from the taxes on tobacco and matches. For all these reasons we fear that his estimate of the possibilities of fresh taxation may prove to be very wide of the mark. In dealing with agricultural incomes Sir Walter Layton makes the remark* that "increased productivity together with the rise of prices since pre-war days has enormously increased the money value of India's agricultural products". This statement is open to serious challenge, since at the present time the prices of three at least of India's most important crops, cotton, jute and wheat, are actually below pre-war levels, while others, such as oilseeds and groundnuts, are but little above them, and this decline had set in even before the report of the Indian Statutory Commission was published. It is scarcely too much to say that

*Volume II, para. 269

the most serious economic problem, with which India—along with other agricultural countries—is faced, is the decline in value of her main products.

Our second general comment is that the application of the scheme to individual provinces has not been worked out by Sir Walter Layton in detail, and, as will be seen later, it is when we come to the detailed application of the scheme that some of the main difficulties arise.

57. **Sir Walter Layton's assumptions as regards the central Government's surplus.**—We propose to examine the scheme from two points of view, first in its reaction upon the central Government, and second in its application to the provinces. Sir Walter Layton calculates that the central Government should after 10 years, on the present basis of taxation, have a surplus of 14½ crores, arrived at as follows :—

Plus.		*Minus.*	
Customs ..	.. 7½	Civil Expenditure ..	.. 3
Income-tax	.. 5	Opium ..	.. 2
Army .	.. 7		
	+19½		—5

Out of this the central Government should be able to distribute to the provinces :—

(*a*) Half the income-tax on personal incomes	.. 6
(*b*) Net proceeds of salt duty (allowing for an increase of ¼ crore after 10 years)	.. 6
(*c*) Balance of duty collected on foreign imported liquor over 30 per cent. ..	.. 1½
Off-set by yield from commercial stamps which will be transferred to the central Government	..—1½
	12

Sir Walter Layton's hypothetical table* actually anticipates that, when at the end of ten years this distribution to provinces has been completed, there will still be in the central Government's budget a surplus of 4½ crores ; and his scheme

*Volume II, page 261.

after ten years contemplates that a certain definite and increasing proportion of the customs revenue should be paid into the provincial fund. He does, however, recognize that this prospective surplus may be affected by a number of factors which are uncertain.

58. **Sir Walter Layton's assumptions examined in detail.**—We now proceed to examine in detail the assumptions made in the above calculations.

(1) *Customs.*—In view of the importance of this head of revenue among the few which are left to the central Government under Sir Walter Layton's scheme, we have had a special examination made by the Central Board of Revenue, which is printed as one of the appendices.* It will be seen that the Board do not accept Sir Walter Layton's calculations, but that for an entirely different reason—*viz.*, the great possibilities which lie in the development of motor transport—they have arrived at the conclusion that in 10 years, provided that there are no setbacks due to extraneous influences, there should be an increase under customs of from 7.8 to 10.4 crores. We would add that some allowance might also be made for an increase in the revenue from the duty on silver, Sir Walter Layton having accepted the estimate in the present budget of 1 crore which on the basis of past years' imports is likely to be exceeded. Therefore, so far as customs are concerned, even if the Central Board's estimate is somewhat optimistic, we do not challenge Sir Walter Layton's figure of 7½ crores, which seems sufficiently conservative, provided always that economic conditions in those years are reasonably good, and that there are no substantial changes in the Government's tariff policy. These two qualifying provisos are of great importance. As to the first, a continuance of the present trade depression would reduce both the value of our exports and the consuming power of the people, and these conditions must lead to a diminished volume of imports. As to the second, the present tendency of articulate political opinion in India is strongly in favour of increased protection, and if this opinion obtains an increasing influence on Government's policy as is likely, many of the present revenue duties may acquire a much greater protective significance, with a resulting decrease in Government revenue. Nor can we leave out of account the possibility that there may be a strong demand that an increasing share in motor taxation should be transferred to the provinces, or be earmarked in some way for road development. There are thus grave elements of insecurity in the position, and the fact that the possibility of

*Appendix I.

improvement seems to depend mainly upon one uncertain item is an additional reason for caution.

(2) *Income-tax.*—It is not necessary to discuss at length the suggestions which have been made by Sir Walter Layton for increasing the return from income-tax by lowering the exemption limit and steepening the gradation of the tax. These are suggestions which have been examined more than once before, and there are considerable practical objections to them. We include in the appendices* an extract from a note by the senior Member of the Central Board of Revenue on the subject. Nevertheless, if there were to be a strong demand from the general public or from provincial Governments, the possibility of increasing revenue in these ways might well be again explored. As regards the taxation of agricultural incomes, in view of the difficulties which this subject presents, it would, in our opinion, be unsafe to count on the increase which would be obtained from the higher rate of taxation on composite incomes. The tightening up of the taxation of income from foreign sources is a matter which we have already under consideration, but we have no evidence on which to base estimates of any substantial increase in revenue from this source. It is probable, however, that even without any change in our system of taxation, if we could count on a normal year coinciding both in Bombay and Calcutta, we should be able to obtain not much less than 2 crores over our present figure at once, and in the course of 10 years at least 3 crores above our present figure. Sir Walter Layton's figure of 5 crores is, in our opinion, optimistic. At any rate we do not care to reckon the average expectation of improvement in 10 years time at more than 3 crores, though this is obviously a heading which is capable of great variation according to the development of the country. If political dissensions subsided, and the whole national effort were concentrated on raising the general standard of life, there might be a surprising increase.

(3) *Civil expenditure.*—The estimate of an increase of 3 crores in 10 years does not err on the side of generosity. We allude elsewhere to the probability of many additional burdens being put upon the central Government for contributions to expenditure in the North-West Frontier Province, and also to the possibility of new demands if new provinces are created.

(4) *Opium.*—We shall lose our revenue on exports (2 crores) but shall still retain a small sum (10 to 15 lakhs) from the sale of medicinal opium.

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* Appendix II.

(5) *Army.*—Sir Walter Layton's estimate assumes a debit of 3 crores to Burma and a further reduction of 7 crores, bringing the military budget for India down to 45 crores. This is a drastic reduction and the possibility of a big saving being realized depends largely on whether His Majesty's Government will make a contribution in respect of the "Imperial defence" element involved in army expenditure. We allude elsewhere to the probability that the Burma estimate will prove unrealizable.

(6) *Railways.*—Sir Walter Layton does not take into account any increase in the contribution from railways in excess of 6 crores, recognizing the importance of keeping railway rates down in the general interests of trade. With this latter comment we definitely agree, though the amount of the railway contribution is a matter which may require further consideration.

(7) *Other items.*—If provinces become responsible for their own accounts, there will be a transfer of expenditure from the central Government to the provinces of over 50 lakhs, though there may be some increase in the central Government's expenditure also on this head, if the scheme for separation of accounts and audit in central areas is extended. On the other hand, the debit to central revenues of High Court expenses less receipts from High Court fees would, we believe, involve an appreciable net charge to central funds. We are not yet in possession of full details on this point, but such preliminary estimates as we have received from provincial representatives confirm this conclusion.

59. **Further considerations affecting Sir Walter Layton's assumptions.**—Apart from the doubts expressed above as to Sir Walter Layton's estimates, there are further considerations to be borne in mind. In the first place, he has assumed that 5 crores of interest on the balances of the paper currency and gold standard reserves will continue to be credited to central revenues. The receipts under this head are, however, at present more than counterbalanced by the losses on sales of silver which are still being debited to a remittance head. In fact the propriety of treating the present receipts as normal revenue may well be regarded as doubtful, and we feel definitely that it would be improper to treat it as a source which could be drawn upon in order to surrender central revenues to the provinces. The difficulty will become more clearly apparent when a reserve bank comes into existence. Under clause 46 of the reserve bank bill of 1927 the central Government was, it is true, to be entitled to a

share in the profits of the bank both during the period when it was building up its reserve and afterwards. These profits, however, would be much less than the interest which we now take to revenue, and in addition the Government of India would, under the reserve bank scheme, be left with the responsibility for the disposal of surplus silver, so that any profits might be far more than swallowed up by losses on these sales.

In the second place, we must take into account the possible financial results of an adjustment of relations with the Indian States. Large claims are being made on their side for a share in our customs revenue and in other directions. It is impossible to make any accurate estimate on this account.

Thirdly, the terms for the separation of Burma, if this is to be effected, are uncertain, and there is a considerable margin of error here especially under the defence and debt heads. Sir Walter Layton, we note, assumes that India will levy customs duty on Burma produce.

Finally the most important consideration of all is that to which we have referred already. The estimated improvement is dependent entirely on the attainment of favourable trade conditions and on the absence of disturbing factors such as war, political unrest, or frontier trouble. We have to remember that these constitutional changes are being introduced at a period of extreme world depression accentuated by the present internal disturbances, and it would be optimistic to assume that trade for a good many years to come will recover sufficiently to give the results anticipated.

60. **Conditions on which the central Government can abandon surplus revenue.**—The conclusion which seems to us irresistible is that all these estimates are so hypothetical that it is impossible to envisage anything like a time-table for giving up to the provinces sources of central revenues. We agree in theory with Sir Walter Layton's statement that it is undesirable that the allocation should be capricious or that policy should be changed from time to time, and we recognize the importance of provincial Governments being able to estimate their financial resources as accurately and as early as possible. But in view of what has been stated above, it seems essential to insist that, if we accept in principle the arrangement that the half share in personal income-tax and the salt tax should be transferred to the provinces, the times and amounts of transfer must depend upon the judgment of the central Government. Sir Walter Layton recognizes that in exceptional circumstances the transfer-

according to time-table may be impossible, but he goes on to lay down that in such an event the transfer should be a first charge on the central Government's surplus, and that any delay would be made good in subsequent years. This formula seems to us to require qualification, if only for the reason that a surplus of one year may not be a recurring surplus, and that it must rest with the central Government to decide when any surplus shown in the budget is evidence of a reliable margin of receipts over expenditure, sufficient to justify the permanent sacrifice of prospective revenue. Sir Walter Layton's formula is also too rigid as, if interpreted strictly, it might be held to mean that the central Government was not at liberty to vary its scale of taxation (especially customs) in a downward direction, a discretion which in the interests of the country as a whole ought to remain with the central Government.

In short, we envisage a situation not different in essentials from that under the Meston settlement under which, while the proportions in which the various provinces were to share in the remission of contributions were laid down by rule, the dates and amounts of remission were left to the discretion of the central Government. This conclusion, however, does not mean that the order in which central revenues should be surrendered should not be definitely prescribed. To this point we shall return in dealing with the application of the scheme to the provinces.

61. **Necessity for allowing sufficient elasticity to revenues of central Government.**—There is another question which is equally important. Does Sir Walter Layton's scheme allow sufficient elasticity to the revenues of the central Government to enable it in all circumstances to discharge its responsibilities, remembering that those responsibilities include defence, the debt, the credit and the foreign relations of India ? On this point we confess that we have felt misgivings. Our customs duties are already high, nor is there much margin left for increase in taxation under income-tax or stamps, or in the receipts from the commercial services such as railways. Once salt has been transferred to the list of national excises, the margin of elasticity in case of need may become dangerously restricted. This leads us to consider the desirability for treating the salt tax in a special way ; for it is the best suited of all for an emergency tax, and this has always been an argument for keeping its incidence low in normal times, so as to retain the possibility of its increase as a reinforcement to revenue in an emergency. For these reasons, while we do not oppose the recommendation that the proceeds of the tax at its present rate should be transferred to the provinces when the central Government is

in a position to do this from its assured surplus, we consider that no further increase in the rate should be permissible as a source of provincial revenues. The margin for increase should be regarded as a potential emergency reserve for the central Government. In addition to this, we accept the recommendation* of the Indian Statutory Commission on the subject of surcharges by the central Government on any taxes included in the schedule of the provincial fund. In the absence of these provisions the central Government would be reduced to dependence practically upon customs, and as we have already explained, it would appear as if the prospects of substantial improvement there are reduced to the single chance of an increase in the motor trade. We further consider that the constitution should retain the provision which now exists in Devolution rule 19, under which in cases of emergency the central Government may require contributions to be paid to it by the provinces, with the sanction of and subject to conditions approved by the Secretary of State.

62. **Application of the scheme to the provinces—examination of some of the proposed new sources of provincial revenues.**—We now turn to the application of the scheme to the provinces. There has not been time for a complete examination of all the points which arise in connection with the proposed new sources of provincial revenues, the decision regarding which will in any case mainly rest with the representatives of the provinces. We must, however, call attention to certain important points which have emerged in the course of our examination and our discussions with local Governments. In the first place, Sir Walter Layton proposes that the customs duty on foreign liquor should be reduced to 30 per cent. and that the provinces should be given the right of imposing further duties on foreign liquor in the form of excises. As a counterbalancing adjustment, the central Government should take the revenue from commercial stamps. We have no objection to this proposal in principle, but a careful scrutiny has suggested that the method proposed for dealing with foreign liquor may involve administrative difficulties not fully realized hitherto. This question requires further examination, which we are undertaking in consultation with the provincial Governments, before we should be able to determine the exact form in which this adjustment could be made. Incidentally we would observe that, although the total amount of the present yield from commercial stamps is roughly equal to the total amount which would be surrendered to the provinces under Sir Walter Layton's proposals, the revenues of individual

*Volume II, para. 163.

provinces would be affected in varying degrees, and some provinces have gone so far as to ask for a preliminary adjustment on this account.

As regards the proposed surrender by the central Government of one-half of the income-tax on personal incomes, we have already indicated that we accept this proposal in principle. Sir Walter Layton has stated that the amount involved is in the neighbourhood of 9 crores, half of which would give the provinces 4½ crores. He estimates further that at the end of ten years this allocation would probably grow to 6 crores. Both these estimates seem to us to be optimistic. On the latest figures available, for the year 1928-29, readjusted at the new rates of taxation introduced in the last budget, we calculate that the personal income-tax collected in the provinces was approximately 7 crores, and the allocation to the individual provinces of one-half of the tax would be roughly as follows :—

	Lakhs.
Madras	50.8
Bombay	90.67
Bengal	96.08
United Provinces	32.68
Punjab	30.75
Bihar and Orissa	23.66
Central Provinces	16.71
Assam	8.97
Total ..	350.32

A point, however, which has to be borne in mind is that the figures shown in the above list would not represent a net gain to the provinces, for under Devolution rule 15 a certain share already accrues to them, and we must presume that it was intended that this provision should merge in the new proposals. It will be remembered that under that rule the provinces are entitled to receive a share (at three pies in the rupee) of the tax upon new incomes brought under assessment in any year as compared with the basic year 1920-21. The object of this rule was to give to the provinces some share in what was expected to be a growing head of taxation, and it was anticipated that the industrial provinces in particular would benefit from this provision. In actual practice the rule has operated very differently from the intention and, owing to the full assessments in the main industrial centres in the basic year, the benefit has accrued mainly to the non-industrial provinces. The sums which the provinces have

obtained under Devolution rule 15 since 1921-22 are given in an appendix*. The latest figures available (for 1928-29), which we quote below, are sufficient to illustrate the unexpectedness of the results :—

	Lakhs.
Madras	5.46
Bombay	*Nil.*
Bengal	*Nil.*
United Provinces	0.77
Punjab	4.04
Burma	12.22
Bihar and Orissa	4.74
Central Provinces	2.23
Assam	6.63

It will be seen from the above table that, if the increase already accruing under Devolution rule 15 has to be surrendered by the provinces, as a preliminary to the surrender by the central Government of half the share on personal incomes, the effect of the latter surrender would be considerably modified. The case of Assam is an extreme one, for that province would on balance only gain 2.34 lakhs. We have not finally considered how this situation can best be dealt with, but we would express a provisional view that here, as also in the exchange between liquor and stamp duties referred to above, some sort of preliminary adjustment will be necessary.

We accept the proposal that provinces should be permitted to levy a surcharge amounting to one-quarter of the tax on personal incomes. The proceeds of this tax, should they elect to impose it and should conditions admit of it being imposed at the full rate, may be taken as approximately equivalent to half the amounts mentioned in the table on the preceding page.

The proposal to remove the exemption from income-tax on agricultural incomes raises a most controversial issue, on which opinion in the country will run high. However indisputable may be the logic of Sir Walter Layton's arguments, we must face the reality that this exemption has the sanction of long tradition and that dealings in land have always been conducted on the assumption that it would remain. The opinions of local Governments, with few exceptions, are definitely opposed to it and for practical purposes we regard its imposition as unlikely in the near future. We have some sympathy with the view expressed by more than one province

*Appendix IV.

that it is a form of taxation which should only be imposed by a representative and responsible government, and this in fact means that it should not be imposed upon a province on the vote of the central legislature, but that the representative legislature in each province must be free to decide for itself.

The objections to the widespread introduction of a system of terminal taxes are more fully dealt with in an appendix*. If imposed on the scale suggested by Sir Walter Layton, it would be a serious burden on trade. A terminal tax designed to bring in 8 crores of rupees a year represents a surcharge on railway freights of about 15 per cent., and the suggestion to impose such a tax is hardly consistent with Sir Walter Layton's strongly expressed view as to the urgent need for reducing freight charges. Moreover, apart from this broad consideration, there are certain practical difficulties in the way of the imposition of a general tax of this nature which are not mentioned in Sir Walter Layton's report. Octroi duties and terminal taxes are already used in some provinces as a source of municipal and local taxation. It would hardly be possible to allow this form of taxation to be used by municipal authorities at the same time as it was introduced on a universal provincial basis as proposed by Sir Walter Layton. On the other hand, the right to continue to levy the tax could not be withdrawn from the municipalities where it is now in force, while we foresee difficulties in the way of resisting all further extension of such a method of taxation to other municipalities. In this connection we have to take the actual needs of the various provinces into account. In Assam, for example, a province whose revenue is very restricted and whose opportunities for improving its position from income-tax, etc., are under the present proposals for special reasons much less favourable than those of other provinces, we think that—particularly in connection with the tea garden traffic—there may be a special justification for some sort of terminal tax. Again, in Bihar and Orissa, a province which has hitherto had no municipalities levying this tax, there will probably be a strong demand for its introduction in this form. Without going into further details, we may state our provisional conclusion as follows. While we hold strongly that the economic disadvantages of such a tax are sufficient to condemn its introduction as a general provincial tax, we think that for purposes of local taxation there may be occasions when it will be the best available method, if used for special purposes and to a properly limited extent. If, however, the continued use of such a tax for local purposes is permitted, it will be essential to reserve to the central Government definite powers of control in order to

*Appendix VIII.

safeguard sources of central revenue, and to prevent the imposition of discriminatory taxation which may involve breaches of international treaties or agreements.

We have already taken up the examination of the machinery for dealing with the proposed taxes on tobacco and matches in correspondence with provincial Governments. Both present special difficulties, and the tax on matches in particular can hardly be imposed on a substantial scale without co-operation on the part of the Indian States. Our enquiries on both subjects are still incomplete and any view which we now take is necessarily provisional. We hope that some effective arrangements can be devised, but we believe that it will not be desirable to impose too high a rate at first on matches, and that the full yield from the tax will only be obtained gradually. We regard Sir Walter Layton's estimate of 5 crores from the taxation of tobacco as too high, and on present information we doubt whether even half that amount is likely to be realized.

63. **Increased resources of the provincial Governments on Sir Walter Layton's and our estimates.**—These preliminary remarks have been necessary in order to enable us to approach the matter from a practical point of view. If Sir Walter Layton's assumptions were all accepted, that is, if within ten years the central Government were able to surrender half the tax on personal incomes and the salt tax, and if the provincial Governments were to get the benefit of all the new taxes, tobacco, matches, terminal tax and income-tax on agricultural incomes, and were to impose the surcharge on personal incomes, and if his estimate of the yield of the various taxes were realized, we should get approximately some such result as the following :—

Province.	Actual increase of revenue in lakhs of rupees.	Percentage increase.
Bihar and Orissa ..	4,24	77
Bengal	7,70	69
United Provinces ..	6,09	52
Assam	1,26	49
Central Provinces ..	2,20	46
Madras	6,24	38
Bombay	4,76	34
Punjab	3,51	32

It must be recognized that the picture presented in the above table represents no more than a distant, and perhaps even totally unattainable, ideal. We have indeed already indicated

our view that all that the provinces are likely, in the near future, to be able to count upon from new taxation is the surcharge on personal income-tax, and a very doubtful 3 or 4 crores from the taxes on tobacco and matches, with perhaps a terminal tax in a province specially situated such as Assam. Some other forms of taxation may possibly be added to the provincial fund, though we can think of none of a very productive nature. We should also be glad to see as much latitude as possible allowed in framing the schedule of provincial taxes ; but the provinces will have to rely, in the main, upon the gradual surrender to them of the central revenues from salt and personal income-tax.

However distant any substantial distribution may be, the figures given above illustrate the plan which now holds the field, and it is on that plan that we must consider the views of the various provinces. A glance at the figures shows that several provinces will inevitably regard it as unsatisfactory, and will claim that it does not take sufficient account of their needs. Our task now is to consider both the final objective and the methods of approach to it, and this means that the practical problems really before us are, first, whether a special enquiry into the needs of different provinces should be made before the automatic distribution begins, and second in what order should the surrender of resources take place.

64. **An enquiry on the basis of needs.**—As regards the first of these problems, the Government of Bombay have felt themselves compelled to apply for a preliminary adjustment to meet their outstanding needs before the application of the automatic principle begins. They suggest that needs can only be determined by obligatory expenditure on essential services. Their request would therefore involve the appointment of a special committee to investigate the needs of the different provinces and to form a judgment upon the present rate of expenditure in Bombay upon essential services as compared with that of other provinces. The Government of Bihar and Orissa also consider that a preliminary adjustment should be made with the object of correcting existing maladjustments before the automatic principle is applied. They point out that, unlike other provinces, they obtained no relief by the remission of contributions under the present constitution, since no contribution was imposed upon them, and that, with their existing deficit of 35 lakhs and the heavier expenditure foreshadowed under the new constitution, there will be no margin for the province to develop, having regard to the fact that the estimates of the Layton scheme can hardly be expected to materialize. The considered views of the Bengal Government are not yet before us, but we have understood from their representative (who with the representatives of other provinces met us recently in conference)

that the Bengal Government also would be likely to press strongly for a preliminary adjustment before the introduction of the automatic principle. Other provinces, though they are prepared to accept the Layton scheme, would no doubt advance similar claims if a committee to enquire into needs were appointed. Some of them might argue that in their case expenditure on essential services had been reduced or deferred through enforced economy in the past.

While we have considered it our duty thus to bring prominently to notice the views of those Governments which have asked for a special enquiry, our own view at present is that the appointment of a committee to examine the position of the provinces on the basis of needs would be likely to intensify provincial rivalries and to create general dissatisfaction. For the conclusion is unavoidable that the demands of the various provinces are incompatible, and that no decision could be reached which would be accepted by all provinces as fair. On balance, therefore, our present view is that we must definitely rule out the idea of any general adjustment as between the provinces on the basis of ' needs ' ; for we do not see how any tribunal could pronounce judgment on a matter so controversial and so much a matter of opinion in a form which we could reasonably expect all provinces to accept.

65. **Preliminary adjustments may have to be considered.**—While, however, we feel forced to the conclusion stated in the preceding paragraph, we do not go so far as to say that no sort of preliminary adjustment should be made. We have indeed been impressed in the course of our examination by the serious injustice which may be caused in the initial stage to certain provinces by the re-arrangement of central and provincial sources of revenue involved in the Layton scheme. We have already referred to the operation of Devolution rule 15, the abandonment of which would involve an initial loss in respect of income-tax for several provinces, which could only be recouped later by the transfer of resources from the central Government, the date of which is uncertain. Assam, for instance, stands to lose at once nearly 7 lakhs from a source of revenue which had been steadily growing, whereas their share of personal income-tax, even if the central Government were in a position to surrender at once the full amount under this head, would not be more than 9 lakhs. Similarly the exchange between foreign liquor and commercial stamps, though these heads approximately balance so far as the central Government is concerned, will affect provincial finances unevenly. No figures are at present available and it will take time to collect them, but one province has estimated its loss from the transfer at 13½ lakhs.

The provincialization of accounts will involve a new burden on the provinces which has hitherto been borne by the central Government, while some provinces might benefit from the transfer of High Court expenses less High Court fees. When the exact effect on individual provinces of these various transfers has been examined more thoroughly than has up to this moment been possible, consideration must be given to the question whether these special grounds justify some preliminary adjustments. We reserve our judgment on this point.

66. **The order of surrender of central revenues.**—It is necessary first to explain how the various provinces will be affected by the order of surrender of the two taxes in question, personal income-tax and salt. We have already indicated the proportion in which the provinces would share the proceeds of the personal income-tax when surrendered. The industrial provinces of Bengal and Bombay and in a lesser degree Madras would obtain the principal benefit. The distribution of the salt tax on the basis of population (taking, as seems reasonable, a net figure of 6 crores at the time when the transfer is completed) would give the following results :—

	Lakhs.	Percentage increase in revenue.
Madras	1,10	6.7
Bombay	50	3.5
Bengal	1,24	11.2
United Provinces ..	1,17	9.9
Punjab	55	5.1
Bihar and Orissa ..	90	16.3
Central Provinces ..	37	7.7
Assam	17	6.6

It is, however, conceivable that the decision might be to transfer not the whole but a portion of one tax, and then a portion of the other. The result can be judged best by giving the proportions in which each province would share in the first crore of each tax surrendered :—

	Personal income-tax.	Salt.
Madras	14.5	18.5
Bombay	25.9	8.3
Bengal	27.4	20.7
United Provinces ..	9.3	19.5
Punjab	8.8	9.2
Bihar and Orissa ..	6.8	15.0
Central Provinces ..	4.8	6.2
Assam	2.5	2.8

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Bengal and Madras come out fairly well in either event, and there is no serious difference in the case of the Punjab, Assam and the Central Provinces, though all would fare slightly better if salt were given the preference. The principal result of preferring income-tax to salt would be a very substantial gain to Bombay and an appreciable gain to Bengal, to the disadvantage mainly of the United Provinces and Bihar.

Sir Walter Layton has definitely recommended that the urgent needs of the industrial provinces should be recognized at least to the extent of arranging that the transfer of income-tax receipts should be begun as early as possible. It is true that the industrial provinces will also gain most from the surcharge on personal income-tax if they decide, and are able, to impose it, but we suggest that as fair a solution as any would be if the surrender of the first 2 crores of revenue were in the form of personal income-tax and that thereafter the surrender of revenue should be from both taxes in equal amounts. We recognize, as pointed out by the Government of Bihar and Orissa, that there would be definite political advantages in making a beginning with the provincialization of the salt tax at an early date. In further support of the form of recommendation that we have thus tentatively made, we would point out that for practical reasons it is likely to be necessary to undertake the transfer of these taxes step by step. The central Government will have to proceed tentatively in the abandonment of its revenues, and it is hardly possible that it will at any moment be in a position to hand over in a single transaction the whole proceeds of either of these taxes.

67. **Procedure applicable to the provincial fund.**—We accept the proposals* of the Indian Statutory Commission regarding the procedure applicable to the provincial fund. Some modification in detail will be required if the Commission's proposals regarding the constitution of the Federal Assembly are revised, but the principles could be applied *mutatis mutandis* to the alternative arrangement which we have suggested for a separate inter-provincial finance council. Several of the provincial Governments have expressed doubts whether it should be open to a minority of the inter-provincial council of finance members to bring proposals for taxation before the Assembly. On the whole however we consider that, if not less than three of the provinces desire that proposals for taxation should be placed before the Assembly it is fair that they should have an opportunity of presenting their case and of securing, if they can, a majority

* Volume II, para. 163.

in the Assembly. It has also been suggested to us that in view of the many uncertain factors and hypothetical assumptions involved in the suggested financial arrangements, which may result in the settlement working out very differently from what is now anticipated, provision should be made for a review of the settlement after 5 or 10 years. We have considered this suggestion, but we are of opinion that such an arrangement would be disturbing, and might even lead provinces into a policy of extravagance with the object of establishing claims for special treatment in the light of their actual commitments at the time of revision.

We recommend that the settlement should be embodied in statutory rules so that alteration of it would be possible without an amendment of the constitution.

We call attention to the recommendation of the Bombay Government, with which we agree, that legislation imposing provincial fund taxation should not be voted every year, but only when the inter-provincial council of finance members makes proposals for a change.

68. **Borrowing powers.**—In an earlier paragraph we stated that we accepted the position that the control by the Government of India over the provinces in the sphere of finance should be confined to the control of borrowing. It is desirable to consider more fully the details of the Indian Statutory Commission's proposals on this subject.

As regards the powers of provincial Governments to raise loans, the proposals in their report make little change in the existing position which is governed by rule 3 (1) of the Local Government (Borrowing) rules (regulating borrowing in the open market) and by Devolution rule 25 (regulating advances by the Government of India to local Governments). In actual practice the terms on which advances can ordinarily be given have been codified in the rules governing the provincial loans fund, which have received the approval of the Secretary of State in Council, and have therefore to some extent limited the fuller powers which the Government of India enjoyed under Devolution rule 25.

The proposals of Sir Walter Layton may be summarized as follows :—

(*a*) The loans raised by provincial Governments should be subject to standard regulations and their raising should be co-ordinated.

(*b*) To this end a council of provincial finance ministers should be instituted, over which the

Finance Member of the Government of India should preside. Its tasks* should be "to establish a borrowing programme, to lay down the standard regulations, and to arrange terms with the Government of India". It should, however, be advisory only for the present, and the real power should vest in the central Government. On the other hand, it is contemplated that the latter should not act without consulting the council, since it is specifically stated that consultation should invariably be made before special sanction is refused to a loan, even where such sanction is definitely required by the regulations.

(c) As responsible government in India develops, the council may cease to be a mere advisory body and may acquire real power.

The Commission† apparently accept these proposals generally. They suggest further that the powers statutorily retained by the central Government should take the shape of a perfectly general control, but that this control should not be used to dictate the purposes for which loans should be raised. If a declared purpose is within the scope of the regulations, the grant or refusal of sanction should be dependent primarily on considerations of the monetary and credit situation. Approval should, however, not ordinarily be given to a loan intended to meet a deficit ; and if it is to be given, the loan should pay a discriminatory rate of interest.

Subject to a qualification and a reservation explained at the end of this paragraph, we are prepared to accept these proposals as a provisional arrangement, though we must emphasize that the words 'credit situation' used above require further definition. The considerations which are to govern any decision should include, not only the general credit situation of the Government of India, having regard to its own position and the rates for money prevailing in the world at the time, but also the particular credit situation of the province which is seeking a loan. For this purpose account would have to be taken of the general financial policy and position of the province concerned. While accepting the proposals as a provisional arrangement, we feel bound to express doubts as to its advisability as a permament plan, if it is to develop to a point where the inter-provincial council ceases to be merely advisory and acquires

* Volume II, para. 311.
† Volume II, para. 189.

actual powers of decision. Several of the provincial Governments have expressed opposition to the idea that their borrowing programme should be controlled by a council consisting of representatives of other provinces who are their potential competitors for a share in the limited amount of loan money available. They do not rule out the possibility that it may be to their advantage to abandon permanently their individual liberty of borrowing on their own credit, for the sake of arriving at a co-ordinated plan of borrowing for the whole of India, and in order to obtain the advantage of borrowing with the credit of the Government of India. But they do not consider that in that case a body composed of political representatives of all the provinces would provide a suitable arbitral tribunal. They contemplate rather something in the nature of an all-India board of loan commissioners, on which the expert element would be strongly represented. It has indeed always been our view that the administration of the provincial loans fund should eventually be entrusted to such a board. On the other hand, we feel that it is premature at this stage to settle any arrangements which should govern the position for all time. While recognizing the advantage of a co-ordinated plan of borrowing, we see serious disadvantages in creating conditions, in which the individual provinces need not consider their own credit with the world but can always rely on the support and protection of the central Government. The surest way to bring home to any Government the necessity for following canons of sound financial administration is that they should be faced, when they disregard those canons, with the absolute impossibility of raising funds, even on loan. This necessity will be borne in upon them if they have themselves to deal with the outside money market, whereas if it is merely a matter between the provincial Government and the central Government, the realities may be obscured and political influences will play a part. Speaking generally, we think that the future course must be decided in the light of actual experience. For the present the provincial Governments are all prepared to continue what is in substance the existing arrangement, and to place themselves in the hands of the central Government. It is our view also that this arrangement should be retained for the present.

We have to make one further observation in conclusion. The objections expressed by the provincial Governments to having their individual loan operations controlled by a council of provincial representatives have led them in certain cases to ask that the functions even of an advisory council should be strictly limited. They fear that even if such a council is merely advisory, if it is formally constituted, it

will be difficult for the central Government to reject its advice. They would prefer it to be definitely understood that the power of decision remains with the central Government and that the central Government will do no more than summon a meeting of provincial representatives so that the general programme may be jointly discussed ; such discussion being of an informal nature and not intended to lead up to anything in the nature of definite resolutions by the council. On the whole, we may express agreement with this view.

We must also make one further reservation. It would seem essential to give the Government of India power to act without consulting provincial representatives if an application for a loan is made in an unexpected emergency. It is consistent with our preceding observations that we do not consider it to be necessary or desirable to provide by statutory rules for the establishment of a council. The necessary provisions could be inserted in the standard regulations themselves, which would take the place of the rules now sanctioned by the Secretary of State. Minor points of detail could be thrashed out when the provincial representatives met to frame regulations.

69. **Provincial balances.**—The Indian Statutory Commission have concurred in Sir Walter Layton's recommendation that provincial balances should not for the present be separated, and that any change in the present arrangements might be postponed until a central bank is created, which would presumably take over the banking business of the provincial and central Governments. We have ascertained that there is no desire on the part of provincial Governments for any immediate change in the present arrangements, and we support the Commission's recommendation. We have, however, to contemplate the possibility that an autonomous provincial Government may desire at some time in the future to maintain its own balances, and following the general principle adopted by the Commission a development in this direction should be allowed for. We therefore recommend that if, after the new regime has been started, any provincial Government desires to maintain separate balances, the Government of India should be prepared to agree, subject to suitable arrangements as to details. A scheme for the separation of balances was drawn up in 1924, and it may be said that the separation could be effected without any serious administrative difficulty.

In this connection the Commission have made a further recommendation that the Government of India should perform the service of banker for the provincial Governments

on a commercial basis, and should not attempt to make undue profits out of the business. We accept this in principle without committing ourselves at present to the amount of profit which would be reasonable or the form in which this profit would accrue, *e.g.*, services rendered at treasuries or interest on minimum balances to be kept by the provincial Governments.

70. **Accounts and audit.**—Sir Walter Layton's recommendation in regard to provincial accounts and to the status and functions of the Auditor General are endorsed* by the Indian Statutory Commission. We accept the Commission's recommendations. It is not unlikely that some of the provincial Governments will at first desire to employ the central Government as their agent to keep their accounts and supervise their accounting staff, but we agree with Sir Walter Layton that whatever arrangement is adopted, the accounting staff should be entirely separate, so that the accounts may be audited by an officer holding an independent position. The various technical problems arising in this connection have been examined, and, although complicated, do not give rise to any insuperable difficulty. The question of the future of the Indian Audit and Accounts Service is among the most important. The danger to avoid is that of having a number of small distinct cadres, none of which would be sufficiently large to offer a career to attract and keep good men. At first at any rate the provinces will probably find it necessary to employ men seconded from the central service for the higher posts, and the full organization will be for administrative experience to decide.

71. **Grants-in-aid.**—We agree with the view expressed† by the Indian Statutory Commission that the rigid system now in force, under which it has been held that it is not permissible to incur expenditure from central revenues on provincial subjects, should be relaxed, and that it should be rendered constitutionally possible under suitable restrictions to assist provincial objects from central funds and *vice versa*. Any such grants-in-aid should be for some specific purpose, and the system should not be used for general relief of provincial revenues.

72. **Local cesses on land.**—We have no comment to make on Sir Walter Layton's recommendation‡ regarding the desirability of removing the limit upon surcharges or cesses on land revenue or rent. This is a matter which is within the competence of provincial legislatures.

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* Volume II, para. 189. † Volume II, para. 187. ‡ Volume II, para. 275.

THE CHIEF COMMISSIONERS' PROVINCES.

The North-West Frontier Province.

73. **The proposals of the Commission.**—The Commission devote particular attention to the peculiarly difficult problem of the North-West Frontier Province. Their first volume contains an illuminating chapter on its main features. The contrast between the government exercised in the five administered districts and in the tribal tracts beyond is authoritatively described, and the chapter ends with a general discussion of the nature of the constitutional problem. The main points which the Commission take are, first, that the tribal area must remain under the direct charge of the Government of India ; second, that the administration of justice and the task of promoting and preserving order in the five districts is intimately connected with the control of the tribal tracts ; third, that if law and order in the five districts were to be dealt with in a provincial legislature, and entrusted to a minister responsible to such legislature, the necessary co-operation would be more difficult to secure ; and, fourth, that the question of law and order, which in other parts of India is a domestic and internal matter, in the North-West Frontier Province is closely related to the subjects of foreign policy, and of Imperial defence. On the other hand, while they comment sympathetically on the fears of the small Hindu community, the Commission hold that the denial of reforms to the five districts has given these an undoubted grievance. They comment, however, on the absence of local experience of the elective principle and draw adverse conclusions from the results of the recent experiment in elections to the Peshawar municipality.

The recommendations made by the Commission in their second volume reflect the tenour of the views they express in the first. They repeat their previous emphasis on the essential need for unified control over the settled districts and over the tribal tracts, as the only means by which the security of the frontier can be effectively maintained. They accordingly suggest that there should be no change in the present arrangement, by which the Chief Commissioner combines in his person the dual responsibility of administering the five districts and acting as Agent for the Governor General in dealing with the tribal area. They propose to meet the political aspirations of the province by creating a local legislature containing indirectly elected representatives, with powers of taxation and of voting expenditure ; but *" executive responsibility should, as at present, rest with the Chief Commissioner ",

*Volume II, para. 121.

74. **The proposals of the Indian Central Committee.**—The recommendation made in the majority report of the Indian Central Committee was that reforms should be introduced into the North-West Frontier Province on the lines of the Morley-Minto reforms ; and that after a constitution of that type had been in operation for ten years, the question should be further examined with a view to seeing what advance could then be made.

75. **The need for constitutional advance.**—As we shall presently indicate, we see strong reasons for giving the North-West Frontier Province a form of government somewhat more liberal than proposed either by the Commission or by the Indian Central Committee. But the first point which we desire to emphasize is that the Commission themselves appreciate the now urgent need for constitutional advance in that province. The need is also recognized by the Indian Central Committee. This is an important variation from the position which obtained in 1919 when the authors of the Joint Report recommended* that, for reasons of strategy, the province must remain entirely in the hands of the Government of India, a recommendation which has since continued to govern its constitutional status. And, though the problem of introducing reforms has been much agitated for some years past, and was examined by the Committee over which Sir Denys Bray presided in 1922; no change in the administration has yet been made. The province was separated from the Punjab in 1901, and still retains the form of government which it was then given. The last thirty years have seen great changes in the province, and this is a position which we think can no longer be maintained. The need for some advance is admitted ; the questions now at issue are its degree, and the form which the new constitution should take.

The Commission seem to have been greatly influenced by their belief that local conditions prevent any resort to methods of direct election. For our part we are inclined to the view that the conclusions which the Commission drew from the first results of a single experiment in municipal elections may have been unduly pessimistic, and, if direct elections to the legislature be found practicable, we would consider it difficult, on general grounds, to refuse to the frontier province somewhat more generous treatment than the Commission recommend. The five districts of the North-West Frontier Province are not behind the adjoining districts of the Rawalpindi and Multan divisions of the Punjab in point of intelligence and capacity. In these Punjab districts

*Joint Report, para. 198.

the method of direct election to district boards and municipal committees was still unknown when the reforms of 1919 were introduced. Nevertheless, they have participated with success in the dyarchical constitution of the province. The people of the North-West Frontier Province may well claim that the absence of direct representation for local purposes should no more obstruct the introduction of representative government in their province now than it did in the Punjab in 1919. In fact the Chief Commissioner has now decided to introduce direct representation for the constitution of local bodies.

There are, however, other reasons of great practical moment for carrying reform beyond the point reached by the Commission. Their proposals concede a legislative council, but deny any popular share in the executive. In effect the Commission, equally with the Indian Central Committee, would leave the North-West Frontier Province, with some variation, very much at the stage which other provinces reached with the introduction of the Morley-Minto reforms in 1909. There would be in the executive no element of responsibility to the legislature. The undertaking of His Majesty's Government set out in the announcement of the 20th August 1917 would still remain unexpressed in the constitution of the North-West Frontier Province at a time when the other provinces are rapidly moving forward to responsible government. We fully recognize the particular conditions of the North-West Frontier Province so well described in the report, and do not overlook the weighty considerations which influenced the Commission in favour of a strictly cautious advance. At the same time the realities of the situation, and we here have in mind the events of the past few months, make it a matter of the first importance that the scheme adopted should attract a reasonable measure of public support ; and, subject to the necessary safeguard, that it should not leave the way open for invidious comparisons between the form of government in the North-West Frontier Province and that introduced elsewhere.

76. **The choice between three courses.**—These are the broader considerations which we have before us. The choice of a constitution for the North-West Frontier Province seems to lie between three systems : either a Morley-Minto constitution, or dyarchy, or a unitary scheme on lines approximate to the form of government in other provinces, but with provisions appropriate to the particular circumstances of the province. The first represents roughly the choice made by the Commission and by the majority of the Indian

Central Committee. For the reasons which we have just given, we consider that it would not satisfy the political aspirations of the province, and would thus suffer from the fatal impediment that it would enlist no popular co-operation. Arguments based on the Commission's contention that the province* " forms the inevitable terrain for military operations " seem to us to be susceptible of implications other than those which the Commission draw. A discontented frontier province would be a serious threat in the rear of any army operating in the defence of India. We would be reluctant therefore to adopt a form of constitution for the North-West Frontier Province which would fall so far short of provincial expectations. Incidentally the suggestion of the Indian Central Committee to fix a ten years' limit to the constitution which they propose seems to us more likely to aggravate than to assuage the objections to their scheme. From the first years of the new constitution agitation would be set on foot to replace an admittedly transitional system by something more acceptable.

The second expedient of a dyarchic constitution on the lines of the existing constitution in the Governors' provinces was suggested by two Muslim members of the Indian Central Committee, namely Sir Zulfiqar Ali Khan and Dr. A. Suhrawardy. So far as we are aware their suggestion has received no support in the province ; and, in the absence of such support, we agree with the Chief Commissioner that there would be very grave disadvantages in now giving the North-West Frontier Province a form of government which is being discarded elsewhere. The general arguments used by the Commission in criticism of dyarchy in the Governors' provinces would apply with special force in the North-West Frontier Province, where irresponsible opposition to the reserved administration would be particularly dangerous.

There remains the third possibility, namely, a unitary scheme approximating to the form of government in other provinces, but with adequate power secured to the head of the province suitable to the particular local circumstances. This is the form of constitution recommended by the Chief Commissioner and represents the choice between the three courses which we would ourselves make. The scheme which the Chief Commissioner proposes is set out in an annexure to his letter ; but the matter is of such great importance to the peace and contentment of the North-West Frontier Province that we make no apology for ourselves recapitulating the features of the Chief Commissioner's scheme and reviewing the lines on which it might be expected to function.

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*Volume II, para. 120.

77. **The Chief Commissioner's scheme.**—The scheme prepared by the Chief Commissioner contemplates a legislature to consist, as recommended by the Commission, of an elected and nominated element in about equal proportions. The precise suggestion is that the elective element should be given a majority of one. So far there is agreement with the Commission, but in place of the Commission's scheme of indirect election, the intention is to substitute direct election " if there is found to be any strong local feeling in favour of a body of elected members wholly chosen by direct election ". The Chief Commissioner does not exclude the possibility of combining direct with indirect methods of election, but, as he states, the problem would require to be worked out by a special franchise committee possibly local in its composition. The size of the council would be determined by the consideration of what would form convenient constituencies, but it is anticipated that it would comprise a total membership elected and nominated of some 30 or 40 members. The Hindu and Sikh minorities would be given weightage which might be double that to which they would be entitled on a population basis, and would be given a choice between various methods of representation including separate electorates, reservation of seats, or even nomination. The official element would be limited to six or eight nominated seats.

The Commission rightly emphasize the need for vesting responsibility both for the five districts and for the tribal tracts in the same executive authority. The Chief Commissioner's scheme recognizes this essential requirement. The head of the administration of the North-West Frontier Province, to be known under these proposals as the Lieutenant-Governor, would remain the Agent to the Governor General in Council for the tribal area. But for the administration of the five districts it is suggested that he should be assisted by two ministers, of whom one would be an official.

This departure from the recommendations of the Commission involves other important consequences. Instead of remaining a centrally administered area under the direct control of the Governor General in Council, it is proposed to devolve authority on the provincial administration with a classification of subjects into central and provincial, following broadly the lines of the classification in other provinces. But there would be exceptions in the case of certain subjects peculiar to the North-West Frontier administration, which would be classified as central subjects and dealt with on the existing basis. The Chief Commissioner has enumerated some of these, for instance, the frontier constabulary and scouts,

frontier remissions and allowances, and strategic roads as illustrations of matters chiefly relating to the tribal areas and to the defence of India, and properly classed as central subjects for that reason. He also mentions the extra police and other forces necessitated by the geographical position of the province. We think it probable that on further examination these should be classed as provincial. These, however, are matters of detail which need not here detain us. The broad point is that in making the dividing line between central and provincial subjects, regard would be had to the need for classifying as central certain subjects of all-India importance peculiar to the present administration of the North-West Frontier Province, which could not properly be entrusted to the provincial legislature.

Simultaneously with the devolution of authority to the local administration, it would be necessary to give the province a financial settlement. The Chief Commissioner has explained that it will be necessary first to reach a figure of what may be called its normal domestic expenditure. Steps have already been taken to enquire further into the classification which he has suggested of various classes of provincial expenditure, but these again are matters of detail with which we need not encumber this despatch. The outstanding result is that even after heads of expenditure which should be classified as central have been separated, the revenues locally raised are expected to fall far short of the expenditure needed for the administration of the subjects, which will be classified as provincial. To meet this deficit a subvention from central revenues would be required which, in agreement with the Commission, we consider would be justified. The Chief Commissioner suggests, and we are disposed to accept his suggestion, that the subvention fixed on this basis should not be variable from year to year, but should be subject to quinquennial review by the Assembly.

These are the broad outlines of the alternative scheme, which with due regard to local conditions the Chief Commissioner has put forward. In concluding his description of his proposals, which he describes as tentative only, he summarizes the main respects in which they depart from the recommendations of the Commission, namely, in the devolution of authority to the local Government ; the provision for a financial settlement ; the introduction of direct election to the legislature ; and the presence in the executive of two ministers, one official and one non-official. The scheme is put forward in the belief that while securing to the Lieutenant-Governor adequate controlling authority, it will give the province a flexible constitution capable, with the growth of political experience, of development and expansion without

the necessity of subsequent violent changes or radical statutory amendment.

78. **Consideration by the Round Table Conference.**—We have no doubt that full opportunity will be taken at the Round Table Conference, in consultation with the British India delegates, to weigh and to assess the rival merits of the three schemes which we have set out, or of any others which may be put forward for consideration. Much weight will attach to the proposal to which the Commission have lent their authority. We recognize the care and the ability with which they have considered this most difficult problem. We do not differ from them in their assessment of the factors which must be borne in mind, and of which we appreciate the bearing. But recent events have thrown fresh light on what has become a pressing political problem. We do not disguise the risks involved. They are set out frankly by the Chief Commissioner. But the risk of continued political dissatisfaction in the North-West Frontier Province is to our minds the greater menace. We look for a constitution which shall be so framed as, on the one hand, to safeguard the peace and security of the frontier, and, on the other hand, to recognize the local aspirations with which we fully sympathize for a form of government, containing a popular element, for the administration of purely provincial subjects. With this objective before us, while we appreciate the arguments on which the Commission base their proposals, we favour the more liberal scheme which the Chief Commissioner has prepared, and which he recommends.

Baluchistan.

79. The Chief Commissioner in Baluchistan accepts the view expressed by the Commission that no present change is required in the administration of Baluchistan, where no desire for western institutions has yet expressed itself. We also are of the same opinion. We agree with the Chief Commissioner in the importance which he attaches to the Commission's proposal for the representation of the province in the central legislature. We have borne this in mind in the suggestions which we have made below for the future composition of the Indian legislature.

Other Areas.

80. **The Delhi Province.**—In our memorandum to the Commission on the subject of the Delhi province, we observed that it comprises the seat of the Imperial Government and those areas alone which could not conveniently be severed from it. Though the memorandum was descriptive only, we drew

upon the precedents of other countries to emphasize our direct interest in the general and political condition of our own enclave. The Commission's view that the form of government in Delhi cannot be usefully altered is entirely in accord with our own opinion. In our own suggestions for the constitution of the Assembly we meet the point taken by the Chief Commissioner that there should be two seats, one for a Hindu and one for a Muslim representative of the Delhi province.

81. **Ajmer-Merwara.**—Similarly, in agreement with the Commission and with the Chief Commissioner, we consider that at present no constitutional reform can suitably be introduced in Ajmer-Merwara. We agree with the Chief Commissioner that the representative of the province in the Assembly should as now be elected, and should not, as suggested by the Commission, be nominated. It may not, however, be possible to meet the view of the Chief Commissioner that Ajmer-Merwara be given a separate seat not shared with any other province in the Council of State. But, as in the case of Coorg, we agree that the views expressed by the Chief Commissioner in this matter should not be overlooked when the precise composition of the Council of State is being considered.

82. **Coorg.**—The Commission have expressed the opinion that there is no ground for changing existing constitutional arrangements in Coorg. The Coorgs themselves appear from the Chief Commissioner's letter to be divided in their views on the future status of the province. Some sections are reported to favour amalgamation with a larger unit; others desire to retain the separate existence of the Coorg province. We agree with the Chief Commissioner that, until local opinion has crystallized, it would be premature and unwise to take final decisions. We accordingly accept the recommendation of the Commission against any present change.

We accept the Commission's proposal to give Coorg one elected seat in the Federal Assembly. We fully appreciate the distinctive historical traditions of Coorg as recalled by the Chief Commissioner, but we see some difficulty in accepting his suggestion that this small province should also have one seat of its own in the Council of State instead of sharing a seat with Baluchistan and Ajmer-Merwara, as recommended by the Commission. The views expressed by the Chief Commissioner on this point may however be further considered when the arrangements for the composition of the future Council of State are being made.

83. **Machinery for constitutional changes.**—Though we accept the Commission's view that the time has not come for constitutional change in any of these four central areas, we recognize that their existing systems of administration may in course of time come to require modification. We should hope therefore that there would be machinery in the constitution to enable administrative and constitutional changes to be made at any time in the form of their government.

BURMA.

84. **Separation recommended by the Commission.**—In their report the Commission discuss* at some length the future of Burma. They describe the nature of its present association with India, and express two main grounds for their belief that the two countries should now be separated. These two grounds, which they state as cardinal considerations, are, first, the strength of Burman sentiment in favour of separation ; and, second, the constitutional difficulty of giving to Burma a satisfactory place in any centralized system designed to advance the realization of responsible government in British India. Their examination of these two matters leads the Commission† " to the definite conclusion that nothing but the most overwhelming considerations could justify the continued retention of Burma within the Government of India ". Having reached this view, they next proceed to consider the main objections which have been raised, military, financial and economic.

The Commission do not contest the argument in the Montagu-Chelmsford report that Burma must remain‡ " part of the Indian polity " for military reasons. They do not enter into questions of high strategy; but, after emphasizing the limit of Burma's interest in the defence of the North-East Frontier of India, they take their main point that§ " they see no reason why it should not be possible to combine political separation with satisfactory arrangements in the military sphere ". Though they contemplate that the troops in a separated Burma would be under the control of the Governor in all ordinary internal matters, they seem to have had in view close military co-ordination under some kind of unified control between India and Burma for the general purposes of defence.

The Commission accept Sir Walter Layton's general conclusion‖ that " separation could fairly be effected in such a way as to do no financial injury to either country, and to leave Burma with adequate resources ".

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*Vol. II, Part VI.
†Vol. II, para. 219.
‡Joint Report, Para. 198.
§Vol. II, para. 221.
‖Vol. II, para. 222.

They restrict their consideration of the economic consequences to the effect of separation on Burma's economic position and its economic relations with India, and suggest that mutual adjustments should be made by way of a trade convention between the two countries to the advantage of both.

The general view which the Commission reach from these conclusions is that there are no military, financial or economic objections of such weight as to amount* to "overwhelming considerations" sufficient to justify the retention of Burma under the Government of India. They accordingly make a definite recommendation that Burma should be at once separated from India, and they suggest that a declaration to that effect should be made as early as possible.

85. **The military problem.**—In the short time at our disposal we have endeavoured to supplement the Commission's investigations into the probable military, financial and economic consequences of separation by further departmental enquiries on our own part. We take first the military problem.

We do not here concern ourselves with questions of the garrison required in a separated Burma; nor with the sources from which it should be obtained; nor again with such matters as the nature and extent of such financial contribution, if any, as Burma might for one reason or another be required to make towards the defence of India. The broad issue which we place before ourselves is whether or not strategical considerations make it essential to maintain a single military organization under unified control for the defence both of India and of Burma. On this broad issue the technical advice which has been tendered to us by our colleague His Excellency the Commander-in-Chief is that unified control is not essential. We are informed that there is no military reason why each country should not possess its own separate defence organization. This advice immensely simplifies the problem with which the Commission were faced. It does not mean that difficult and complicated issues may not arise in determining the appropriate arrangements for the defence of Burma. Nor does it exclude the possibility of some measure of mutual co-ordination in the arrangements made for the defence of the two countries. But the advice which we are given, and which we are disposed to accept, goes far to remove the military problem as in itself an obstacle to the separation of Burma. Moreover, it is wholly in accord with the representation made by the Government of Burma themselves that† "separation should be complete, and

*Volume II, para. 219. †Burma letter, para. 14.

should extend to the military as well as to the political sphere ".

86. **Financial considerations.**—Our examination of the financial consequences likely to arise from separation is necessarily incomplete, but we enclose in the form of an appendix* a memorandum prepared in our Finance Department discussing various aspects of this matter. The calculations made by Sir Walter Layton in his note on the financial aspect of separation are examined and discussed, and the conclusion reached by the Department is that it would not be safe to accept at present the Commission's finding that separation could fairly be effected in such a way as to do no financial injury to India. At the same time, according to the departmental view, separation could be brought about in such a way that the revenue loss to India would not be of sufficient magnitude to make it a factor of overriding importance in considering the *pros* and *cons* of separation. The reactions of separation in the financial sphere will not be confined to its direct effects on revenue and expenditure. In considering these reactions we wish to emphasize the great desirability, if separation is to be carried out, of adjusting the relations between the two countries in a spirit of reason and mutual accommodation, so as to avoid as far as possible the ill-effects which might arise from so great a change in long-established practice. This remark applies equally to the economic consequences referred to in the next paragraph.

87. **Economic consequences.**—We turn now to the possible economic consequences of separation. Here we pass into a region where precise statements of the probable future position in the event of separation cannot be made. At present the two countries come under a single economic system. The Commission have examined the question primarily from the aspect of the reactions of separation on the economics of Burma. They comment on the divergence of interests between India and Burma and mention† that " Burma increasingly feels that its own practical interests sometimes conflict with the policy which commends itself to the majority in the central legislature ". We are aware that some sections of influential opinion in Burma take the view that economically their country suffers by its union with India, and that this constitutes a factor in the local demand for separation. But even if it were to be established that under existing arrangements Burma suffers some economic disadvantages not directly offset by compensatory economic benefits, this would not necessarily lead to a decision in favour of immediate separation. It would still be necessary to assess the

*Appendix IX. †Volume II, para. 218.

economic effect on India of a separated Burma. The most that we are able at present to say on this subject is that the economic effects may be considerable, but that, as suggested by the Commission, it should be possible to secure the legitimate interests of India by some such means as a trade convention on terms mutually advantageous to both countries.

88. **Administrative aspects.**—Into the more general aspects of separation we have made similar departmental investigation. No administrative objections have been brought to our notice of such moment as to affect a decision on the broad question of policy whether Burma should remain a part of British India, or whether it should be separated. If the political association of the two countries were to be terminated, it might still be found desirable by mutual agreement to retain common services for certain purposes. For instance, local difficulties in organizing scientific departments corresponding to the Geological Survey of India, the Survey of India or the Meteorological Department could be met by agreed arrangements on a basis of payments made for services rendered. Any necessary co-operation, for instance, in agricultural, medical or forest research, could no doubt be settled by negotiation.

89. **Separation accepted in principle.**—The brief review which we have made of the military, financial, economic and administrative factors leads us generally to the same conclusion as that reached by the Commission, namely that, however important may be the practical considerations which are raised by the proposal for separation, and we do not disguise from ourselves the fact that the consequences may be far-reaching, they do not in themselves constitute any insurmountable barrier. The separation of Burma can therefore be examined in the light of the broader considerations of policy adduced by the Commission. In their first volume the Commission* set themselves " to bring home to the British Parliament and the British people in what the difference between Burma and the rest of India essentially consists". The people of Burma are entirely different from the people of India. They come from a different stock and have a different history. The former rulers of India never ruled over Burma. The country in which the Burmese live is geographically distinct from India and is cut off from it by sea, mountain and jungle. These statements by the Commission of the differences between the two countries supply the fundamental argument in favour of separation, an argument which develops greater strength with each step forward that India takes on the road to self-

* Volume I, para. 95.

government. The Commission describe the difficulties of Burmese representation in the central legislature, and the disabilities from which the few Burman representatives must necessarily suffer in a body preponderatingly Indian in its composition and its outlook. We accept their description and we recognize the difficulties. But the real argument for separation is that in the words of the Joint Report* "Burma is not India".. For that reason the growing volume of Burmese sentiment in favour of separation is now difficult to resist. Since the publication of the Commission's report the Burma legislative council has again expressed itself unequivocally in favour of separation, and in their letter the Government of Burma accept† as "unquestionably correct" the estimate of Burmese opinion made by the Commission.‡ We accordingly endorse the view expressed by the Commission that, so far as there is public opinion in Burma, it is strongly in favour of separation. Assuming, therefore, that an equitable financial settlement will be made between the two countries, and that their respective economic interests will be safeguarded by arrangements which we hope may be mutually advantageous, we support in principle the proposal that Burma should now be separated. At the same time we feel strongly that it is a matter regarding which Indian opinion should have ample opportunity to declare itself, and we would not ask His Majesty's Government to come to any definite decision until there has first been full discussion of the whole question at the Round Table Conference. We accept the view of the Commission that there is nothing to be gained by postponing separation to any later stage in the constitutional growth of British India. If separation be accepted in principle, the present revision of the whole constitution of government in British India supplies the appropriate occasion for making the change.

90. **An early declaration of policy.**—The Commission suggest that an announcement should be promptly and publicly made that the policy of separation of Burma from British India has been approved, and that consideration will at once be given to the question of the new constitution of Burma, and to the adjustment of the many complicated and important matters which must arise during the period of transition.

As we have just indicated, we do not contemplate that any public declaration should be made before the question of the

*Joint Report, para. 198. †Burma letter, para. 2.

‡ Volume II, para. 219.

separation of Burma has been considered by the Round Table Conference. There may even be difficulties in making an announcement before Parliamentary approval has been obtained. This, however, would be a matter between His Majesty's Government and Parliament. The point with which we are concerned is to invite attention to the emphasis which the Government of Burma lay upon the need for expedition, in order that a new constitution for Burma may come into being at the same time as the new constitution for British India. In view of the large issues involved, we have some doubt whether this will in fact be possible ; but, assuming that the general case for separation is established, we agree both with the Commission and with the local Government that an early declaration of policy is desirable to enable enquiries to be set on foot without avoidable delay, in order to effect the separation as nearly as may be simultaneously with the introduction of the new constitution in India.

91. **The machinery for enquiry.**—We have mentioned that large issues are involved, and we shall endeavour to give a connected view of the general nature of the enquiries which seem to us likely to be necessary before separation can be carried into effect. In such an event, there would be three classes of matters to be considered. In the first place a new constitution for the separated Burma would be required. Secondly it would be necessary to separate the finances of the two countries and to determine in other respects their mutual rights and obligations. And, lastly, there are all those arrangements which may require to be made by agreement between two separated countries, arrangements, for instance, relating to commercial and trading conditions. The most that we can attempt at this stage is to sketch in outline the machinery which may be necessary for the investigation of these several matters.

92. **A constitutional commission.**—The Commission naturally do not themselves undertake to elaborate a constitution for Burma because, as they say, suggestions from authoritative quarters are not as yet forthcoming, and until the main question is settled, the consequent readjustments are hypothetical. But they indicate* that they do not contemplate that " the framing of a new constitution for Burma would be undertaken without full consultation on the subject with those having special knowledge of the working of the

*Volume II, para. 225.

present government, or until after further enquiry into local conditions and opinions ".

We should not anticipate that there could be any difference of opinion on the necessity for appointing some authoritative *ad hoc* body, whether commission or committee, to report upon a new constitution for Burma. Conflicting views may be held regarding the exact nature of this body. The Government of Burma set out two alternatives, either enquiry by a Parliamentary commission appointed by Royal Warrant or enquiry by a committee in which Burmans would be included. For reasons given in their letter the local Government prefer the former method, but would make provision to associate a select committee of the Burma legislative council with the work of enquiry both in Burma and in England. We do not ourselves feel called upon at this stage to express an opinion on these alternatives. But there is a considerable Indian population resident in Burma; and Indian capital and labour play an important part in Burmese business. The Government of India could not therefore disclaim all concern in the framing of a new constitution for Burma, and we would expect that in the process of enquiry Indian opinion would be given adequate opportunity to be heard on all matters touching Indian interests in Burma. These, however, are matters into which we need not now enter. Our immediate intention is to affirm the need which, in the event of separation being accepted, will at once arise for full and specific enquiry into the framing of a new constitution for Burma, a problem which has not yet been examined.

While we limit ourselves to stating this broad proposition, there is one matter of particular importance relating to the terms of reference to be given to those entrusted with this responsible task, on which the local Government comment, and to which we invite attention. When the announcement of August 1917 was made, Burma was, as it now is, a part of British India. The progressive realization of responsible government was promised to Burma equally with the rest of India. It is important that the pledge then given should be re-affirmed to a separated Burma. In some quarters doubts have been cast on the motives alleged to underlie official support to the policy of separation. If for no other reason, a clear statement of the continuing policy of His Majesty's Government should, in the event of separation, be publicly made in order to set such doubts at rest. We agree with the local Government that the point, which was not overlooked by the Commission,* can probably best be taken in the terms

*Volume II, para. 225.

of reference given to the commission or committee appointed for the purpose of the constitutional enquiry. We do not propose to discuss the lines on which this enquiry should proceed, but the organization of the defence of Burma will be a matter in which, as near neighbours, we may be expected to possess a continuing interest. For that reason, as also because of the present association of the two countries, we assume that the body charged with the constitutional enquiry will obtain the views of the military authorities in India on this question.

Lastly, before we pass on, we take this opportunity to state our agreement with the opinion* expressed by the Commission that, if separation takes place, the Governor General of India should cease to have any official responsibility towards Burma, and Burma should have a Governor of its own not subordinate to the Governor General.

93. **The financial settlement.**—The general financial aspects of the separation of Burma were examined by Sir Walter Layton in an appendix† to the report. We have already mentioned his general conclusion, which the Commission accept, that separation could fairly be effected in such a way as to do no financial injury to either country, and to leave Burma with adequate resources, and we have invited attention to the rather more cautious anticipation of the probable position made by our own Finance Department. The Government of Burma state that while they do not accept the assumptions made by Sir Walter Layton, they accept his general conclusion that there is no strong financial objection to separation.

It is clear that the separation of the finances of the country will raise extremely difficult issues, requiring close expert analysis, in the decision of which it will be essential to hold an even balance between what may be conflicting claims. We agree with the local Government that the best method of approaching this difficult problem is to endeavour, by mutual co-operation between the Government of India and the Government of Burma, to draw up an agreed statement of the case for reference to an impartial tribunal. The subjects requiring settlement will be of a technical nature, and will include, besides the normal questions of the adjustment of revenue and expenditure, such matters as the allocation of debt charges and the adjustment of currency arrangements. No constitutional commission could deal satisfactorily with these questions, for its functions would be entirely different, as also its probable methods of enquiry. In arriving at a

*Volume II, para. 226. †Volume II, pages 280-285.

financial settlement the main point to be considered is the need for satisfying public opinion in both countries that each is being fairly treated. Indian public opinion would watch this aspect of the arrangements very jealously, more particularly the allocation of debt burdens. We believe that a committee of the Privy Council would be the sort of tribunal most likely to satisfy Indian opinion. Their decisions could be given on evidence placed before them, assisted by expert witnesses, or possibly assessors, from India and from Burma.

94. **Trade agreements.**—There remain the matters to be settled by agreement. Those which we have principally in view are connected with trade and commerce between the two countries. It might be argued that the consideration of these aspects of the problem could be left over until separation is effected, a financial settlement reached, and a new constitution for Burma inaugurated. The contrary view might be taken by Indian critics, that Indian opinion would only agree to separation subject to satisfactory arrangements being made on such matters. We do not ourselves consider that this attitude could be sustained, but we recognize that the knowledge that India and Burma were agreed to work together to their mutual advantage in regard to these questions would facilitate the discussion of the overriding issue of separation. We therefore agree with the local Government that in the treatment of these questions, as in the collection of material on which to reach a financial settlement, the ground should be prepared and endeavours made to establish without further delay an agreed statement of facts to serve if possible as a basis for future arranements, which the two Governments, as they stand to-day, should agree to accept.

95. **Summary.**—After accepting separation in principle, we have in these paragraphs attempted to indicate in very general terms some of the more important issues involved, and to suggest machinery for their treatment. Should the policy of separation be adopted, these matters will require a very much closer examination in detail than it would be profitable for us to give them at the present stage, while the acceptance of the policy itself is still hypothetical.

THE CENTRAL EXECUTIVE.

96. **The conditions of the problem.**—We come now to the central Government and the main problem which it presents, namely, the nature of the central executive and its relations with the legislature. In considering the form of government at the centre it is necessary to remember that we are engaged in a process of transition from a system

of bureaucratic administration towards full responsible government. The process may be said to have commenced as soon as a legislature containing an elected non-official element was set up. It has been developed by successive increases in the elected element in the legislature and in the powers that the elected element enjoys, and also by the inclusion of non-official Indians in the central executive. We have already explained that in our view the time has not yet come for the final completion of this process, and that the present period of transition requires the continuance of an effective partnership between Britain and India. A partnership involves on both sides some measure of accommodation and compromise, and there is always a danger that it may lead to division of opinion. Nevertheless it is clear that on no other principle can we expect to devise at this stage a form of government at the centre which will provide for the essential interests and responsibilities of Britain, and at the same time give scope to the reasonable demands and aspirations of India.

97. **The existing form of government.**—It may be convenient at the outset to recall the framework of the existing structure of government at the centre. The Governor General in Council is responsible in all matters to the Secretary of State. The members of the executive Council are appointed by the Crown and three of them must be persons who have been for at least ten years in the service of the Crown in India. The legislature consists of two chambers, of which the first contains a substantial majority of elected members, though the nominated element consisting of 26 official members and 14 non-officials, is of sufficient size to play a very important part. The non-official Indian members of the Governor General's Council have not been drawn from the existing legislature and do not depend for their position on its support. The Government endeavour to accommodate their policy so far as circumstances permit to the views of the majority of the legislature. But this does not obscure the fact that ultimately they are responsible to the Secretary of State, and that in the last resort there are special powers by which they can secure what they deem essential in the matter of legislation or supply in spite of the opposition of the legislature.

98. **The working of the existing system.—Unity in the executive.**—In our view the main conditions of a strong Government on the lines which have already been drawn irrevocably for India are, first, internal unity in the executive, second, harmony between the executive and the legislature and, third, a sufficient backing from public opinion. We propose to consider in the first place to what extent these

conditions are at present realized. The existing system provides adequately for the first condition, namely, internal unity in the executive. All the members of the Governor General's Council are appointed by the Crown. An Indian member of Council may have made his name in political life, but on appointment to the Council he would be regarded as a temporary official, more amenable perhaps to popular influences than an ordinary official, but standing apart from the legislature, and for the time being lost to popular politics. The executive thus retains its unity.

99. **Relations between executive and legislature.**—The second condition however, namely, harmony between executive and legislature is on this very account most difficult to realize. There is no effective link between them, and it is important to see whether their mutual relations are such as to avoid embarrassing the Government as a whole. The Commission would almost seem to suggest an affirmative answer. It is true, as they point out, that a large number of Government measures have been passed by the Legislative Assembly, and that, though many of these are of subsidiary interest, some have been of great importance. It is necessary, however, to look below the surface. If the working of the system is analysed, it will be found that an appreciable amount of non-controversial business is got through by agreement ; that in matters important in themselves, but which do not seem to the executive to be in conflict with its vital responsibilities, the executive is prepared to let its decisions be largely guided by the views of the legislature, and that in matters which raise issues affecting the essential responsibilities of the executive, the latter is sometimes able with the foundation of a nominated official and non-official element totalling 40 out of 145 members to secure sufficient support from other groups to get its own way by a bare majority and after acute controversy. But there are occasions when the executive fails to carry in the legislature measures which it regards as of the first importance, and there are other occasions when it feels that certain legislation, even if not of an essential character, ought to be undertaken, but knowing that there is no chance of carrying it, refrains from introducing it. Thus, although at first sight it might appear that the executive is usually able to carry its measures, the real situation is that in any controversial issue the Government can seldom be certain of securing the support of the majority of the Assembly. It is true that their executive powers are unimpaired, though they are subjected to inevitable and ceaseless criticism. But the difficulty of ensuring a majority in the Assembly may frequently be a source of embarrassment

in projects of legislation or in obtaining supply. In these circumstances it is unlikely that what we have described as the third condition of a strong Government should be realized, namely, a sufficient backing from public opinion. Indeed, as we indicate below, controversies in the Assembly definitely tend to injure the credit of the Government in the country.

100. **Causes of lack of harmony.**—It is no part of our case to impute the blame for these conditions either to the executive or to the legislature. It is merely a practical illustration of a familiar feature of representative government of this type, where an irremovable executive is confronted with a popular Assembly in which it can command only a minority of votes. Personal influence and a spirit of goodwill may do something to mitigate the tendencies which make for disagreement between the executive and the legislature. But the tendencies themselves are inherent in the system. On the one hand there is a legislature with a substantial majority of elected members entrusted with wide powers but with no real responsibility. The legislature can and does in many matters influence profoundly the policy of the executive. But it can hardly feel that the policy is really its own. It cannot secure that those who determine policy should be in general sympathy with its views, nor can it be called upon to assume responsibility for the action which it recommends. In these circumstances it is natural that considerable elements in the legislature should develop primarily an attitude of destructive criticism and find themselves in constant conflict with the executive, partly on the merits of particular proposals, and partly as a protest against a position which they resent, and from which they can only hope to escape by undermining and weakening the authority of the executive. The executive on the other hand, while it retains its normal powers of executive action, and is even able in emergencies to override the decisions of the legislature in matters of legislation and supply, nevertheless suffers from the loss of public credit and confidence which result from conflict with the legislature. Public opinion counts every year for more and is expressed in an increasing degree in the legislature, where it finds a conspicuous platform for the purpose of extending its own influence and denouncing the policy and action of Government. Conversely the criticism of the executive by the elected members in the Assembly, characterized as it not unnaturally is by the normal exaggerations of political controversy, receives wide publicity and support in the press throughout India, and so magnified has tended to generate feeling and friction. The Statutory Commission refer rightly to the danger of the authority of

Government being undermined by continuous and unjustifiable attacks. Publicity is suggested as a corrective, but satisfactory publicity for a Government placed in the position we have indicated above is difficult to secure. The only effective remedy is to enlist a greater degree of popular support.

101. **Outline of proposals of the Commission.**—Having given a general picture of the existing constitution at the centre and the way in which it works, we have to consider against this background the proposals of the Commission for the future. The Commission suggest no change as regards the responsibility of the Governor General in Council to the Secretary of State, and they have been unable to propose any definite restriction of the field in which the Secretary of State will exercise his powers. In all matters, with the exception of those covered by the fiscal convention, the principle of which, however, they do not approve and would not extend, the Commission contemplate that the Governor General in Council will remain subject to the orders of the Secretary of State. The Commission further insist* in very emphatic language on the unity of the Council. "Unity in the central executive must be preserved at all costs". They propose to continue the requirement that three of the members of the Governor General's Council should be persons who have been for at least ten years in the service of the Crown in India. They put forward, however, two important suggestions in connection with the appointment of members of the Council. In the first place they suggest that the members should be appointed by the Governor General instead of by the Crown, and in the second place they suggest that some of the members of the Council should be taken from among the members of the legislature. At the same time they propose changes in the composition of the legislature which might have far-reaching effects. They contemplate that the Assembly should be composed by indirect election from provincial councils, that its numbers should be raised from 145 to something between 250 and 280 and that the official element should be reduced from a total of 26 to 12, to which would be added the members of the Governor General's Council. We discuss the general question of the substitution of indirect election for the present direct method when we come to deal with the central legislature. But it is in point here to observe that there is little ground to anticipate that this change would produce a legislature of which it could be predicted that it would work harmoniously with the executive contemplated by the Commission. In any case it is evident that these proposals would completely change the balance of the legislature, and that the proportion which the official

* Volume II, para. 165.

element bears to the whole would be so small that it would be unable to exercise any appreciable influence.

102. **Implications and consequences of these proposals.**—It is necessary to examine fully the implications of these proposals. Such an examination appears to indicate that in practice they can hardly produce the strong central Government which the Commission desire to see. Indeed they carry a stage further a process which we consider has already reached the limits of safety. The policy pursued in the past in developing the constitution has been to make successive advances in the legislature, while maintaining more conservative treatment in the executive. That may have been a wise course as a matter of political education, but in other respects it has had consequences not salutary. As we have pointed out above, it has tended to foster irresponsible criticism in the Assembly, and placed the executive in a difficult position. A stage has now been reached when the appropriate course appears to be to endeavour to bring the development in the legislature and the executive into closer co-ordination. We should therefore prefer to pursue a somewhat more cautious policy in regard to the legislature, and to consider whether it is not possible to contemplate some development of the Commission's proposals for the executive in its relations on the one hand to the Secretary of State and on the other to the legislature, which would afford promise of more favourable conditions than these proposals, as they have been generally understood, would appear to contain. Under the proposals of the Commission we fear the executive would find itself constantly faced with the dilemma either of conflict with the legislature, under conditions in which it could never expect a majority, or of subordination to the views of the legislature. The answer suggested by the Commission to this line of comment is that in fact Government policy will be profoundly affected by the action of the legislature, and that the executive will to an increasing degree be responsive to the will of the members of the Assembly. This doctrine of "responsiveness" is one to which we ourselves attach great importance, but it must be recognized on the one hand that it cannot be applied when the popular view is in opposition to the policy which Parliament considers it necessary to pursue, and on the other hand that when it is applied consistently it approaches very near to responsibility. Responsiveness to the legislature is difficult to combine with a strict adherence to the principle of responsibility to Parliament over the whole field. We shall deal with the matter more fully later. At this point we only wish to suggest that the difficulties inherent in the situation would be greatly enhanced by constituting the executive and the legislature on principles which

would widen the gap between them. We do not deny that there must in present conditions remain an appreciable degree of incompatibility, but our aim should be to reduce that incompatibility so far as circumstances permit. If, as we hold, the Commission were right in taking the view that the present popular character of the legislature should not be impaired, any adjustment must be sought in revision of the composition of the executive or of its responsibilities. In regard to the latter point we have already suggested that it may be possible for Parliament to restrict its interest to certain definite purposes, a course which would have important effects on the relations of the central executive and its legislature. In regard to the form of the executive it may be that, in order to obtain a greater degree of harmony with the legislature, we shall have to sacrifice something of its internal unity. We do not fail to realize the great importance of effective unity and shall endeavour in any suggestions we make to promote its retention in the greatest degree possible. But we do not think that all other considerations can be sacrificed to the attainment of this one object, or that internal unity in the executive without any degree of harmony between the executive and the legislature will yield a strong or even a tolerable Government.

103. **The possible methods of sharing power.—Exclusion of certain functions from the field of the central Government.**—We have made it plain that in our view conditions at the centre involve an inevitable duality or sharing of power between Parliament and the Indian legislature, and we now proceed to consider the various constitutional forms by which this essential fact might receive expression. The most extreme and rigid method would be to exclude certain subjects from the purview of the Indian legislature, and to administer them in unqualified responsibility to the will of Parliament. As a means of dealing with strictly limited problems for very special reasons it deserves consideration, and we shall discuss below the proposals made by the Statutory Commission for excluding from the sphere of the Governor General in Council the administration of the army, and the exercise of paramountcy in regard to the Indian States. But the objections to any considerable extension of this system are obvious. Constitutionally it may be distinguished from dyarchy in that in the main sphere of government there would be no division. But if the excluded sphere were appreciable there would really be two Governments, and that is clearly not an arrangement which could be contemplated. Moreover, even if the excluded sphere is limited, such a plan involves a separation of the functions of government to which there are substantial objections.

104. **Exclusion of rights of paramountcy in relation to Indian States.**—The specific proposal, however, made by the Commission that in future the Viceroy, and not as at present the Governor General in Council, should be the agent of the Paramount Power in its relations with the Princes, appears to us to rest on a sound basis and has our full support. We give in detail later the reasons on which this conclusion is based. It is sufficient at this point to state that we regard the exercise of paramountcy over the States as not one of the natural functions of the Government of British India, and we recommend accordingly that it should be vested in the Viceroy alone.

105. **Suggested exclusion of defence.**—The Commission have proposed, for special reasons, that the problem of the defence of India should also be solved on the lines of exclusion. They suggest that a definite agreement might be reached between India and Great Britain, acting on behalf of the Empire, whereby the forces composing the existing army in India would no longer be under the control of the Government of India, but would be under an Imperial authority, which would naturally be the Viceroy acting in concert with the Commander-in-Chief. The Imperial authorities would undertake the obligations of Indian defence in return for the continued provision of definite facilities as to recruitment, areas, transport and other matters. It is suggested that there would be an equitable adjustment of the burden of finance, a contribution subject to revision at intervals being made from Indian revenues, while it is foreshadowed that the balance of the expenditure would be borne by Great Britain. The central legislature would not vote the annual sum required for the army, the appropriation of which would be authorized by certificate of the Governor General. It is suggested that a committee on army affairs should be constituted, on which the central legislature would have representatives, for the purpose of discussing and keeping in touch with military questions. The military administration would have to be secured in all necessary control over its own dispositions and arrangements, and would have the right to demand the co-operation which it now enjoys from the civil authorities. We examine elsewhere the more practical administrative aspect of these proposals. At this point we confine ourselves to a consideration of the scheme in regard to its constitutional implications.

106. **The constitutional aspects of this suggestion.**—The Commission have been greatly impressed by two incontestable facts. The first is that the defence of India involves interests in which the whole Empire is concerned. The

second is that, though we look forward to a future in which India will assume responsibility for her own defence, for the present and for many years to come the defence of India must rest on an army which includes a large British element. From these two facts the Commission draw the conclusion, which we fully accept, that Parliament cannot now or in any future which is within sight divest itself of all responsibility for the army in India. The Commission view this conclusion as involving an obstacle in the way of progress to full responsibility. We agree that the problem of defence is the most serious difficulty that stands in the way of India's attainment of fully responsible self-government, and that it is likely to continue longest. But at the moment it is by no means the only difficulty, and we think it is important not to suggest that its removal would at once clear the way to fully responsible government over the rest of the central field. It is evident that that is not the view of the Indian Statutory Commission. On the contrary, according to their plan, after the exclusion of the army from the sphere of the Government of India, that Government would still remain irresponsible to the legislature. It is doubtful therefore whether under this proposal of the Commission there would be any immediate gain to India's constitutional progress, and we are somewhat apprehensive of a premature decision. Conditions do not remain static, and it seems to us not impossible that, by retaining the army for the present under the control of the Government of India, a workable partnership in its administration may gradually be evolved by means of the natural processes that we hope to see set up by the new constitution. On the other hand we do not in any way ignore the advantages promised by the proposal, even if the full effects of these might not be immediately felt, and we are of opinion that so far as concerns its constitutional aspect, much must depend on the attitude of Indian opinion. If that opinion expressed itself definitely in favour of the idea, we should certainly recommend that it should be further examined.

107. **A scheme contingent on exclusion of defence.**—In this connection one of our number wishes to draw attention to a scheme which in his view would deserve careful consideration, if it were found possible in agreement with Indian opinion to place the administration of the army and the defence of India in the hands of the Governor General. With this barrier to constitutional advance removed, he suggests that a form of central executive might be considered which would make feasible a considerable measure of responsible government. The scheme would recognize fully the

concern of Parliament for securing certain purposes which we have described elsewhere, and the principle would be that after providing means whereby the duty resting on Parliament in respect of such matters might be discharged, responsibility for the rest of the administration would pass to ministers answerable to the legislature. The feasibility of the scheme admittedly depends in the first place on an agreement by British and Indian opinion to remove the administration of the army from the province of the Government of India and place it in the hands of the Governor General. With the elimination of this responsibility and of the exercise of paramountcy over Indian States, which we have already recommended should be the function of the Viceroy and not of the Government of India, it is suggested that the way would be left open for the functioning of a unitary Cabinet, responsible to the legislature and administering all the remaining departments of Government, but subject to the overriding control of the Governor General in all those matters in which Parliament found it necessary to maintain its responsibility. Though the administration of all subjects, except the two which would be excluded from the functions of the central Government, would be conducted by ministers chosen from and responsible to the legislature, the ministers would in cases which affect the responsibility reserved to Parliament be subject to the exercise by the Governor General of extraordinary powers of direction and veto. For the effective exercise of the powers reserved to the Governor General, it would be necessary that he should be suitably advised. It is suggested that one way in which this purpose could be served would be through the appointment of two or, if found necessary, more advisers of suitable experience and standing, who would be charged with the special duty of pointing out when a course of action or abstention from action was calculated adversely to affect the interests which it was the duty of Parliament to safeguard. Such advice would be tendered in the first instance to the minister concerned, and in the event of the minister's refusal to accept it, it would be for the Governor General to decide either forthwith, or after consultation with the Secretary of State, whether the occasion demanded the exercise of his special powers. With the secretaries in the various departments would rest the duty of seeing that all important questions, even remotely likely to impinge on the sphere in which Parliament maintained its responsibility, were submitted to the ministers through the advisers, who would thus be in constant touch with the important day to day administration of departments. Finally, the Governor General would be armed with the powers requisite to enforce a decision both in the field of legislation and finance, and the ultimate power of

suspending the constitution would also be a necessary corollary. It would be specially necessary to provide for the responsibility of Parliament in the financial field. The repayment of the public debt of India and the interest thereon, the charges due from the Indian exchequer for the cost of Indian defence, the pay and pensions of officers appointed by the Secretary of State, would all need to be specifically provided for by making them a first charge on Indian revenues, and the management of the currency would need to be entrusted to a reserve bank suitably constituted and placed on a statutory basis. The fulfilment of certain conditions, such as the establishment of a reserve bank of this character and the constitution of a statutory authority for the control of railways, would precede the inauguration of such a constitution. These preliminaries, which would be of a definite and specific character, need not however relegate its introduction to an indefinite or unreasonably distant date.

It is recognized by our honourable colleague that it is possible to urge objections, not without force, to such a constitutional project, and to express doubts, not without justification, as to its operation in practice. The important question, however, in his opinion is whether on the one side the proposal to confine the limits of Parliamentary interference within as narrow boundaries as possible, and the manner of its exercise, would find acceptance, and on the other whether certain inevitable limitations of authority would meet with acquiescence. The advantage claimed for the scheme is that it permits of a unitary Government at the centre, of a healthy development of parliamentary life, procedure and conventions impossible under any dyarchic scheme, and that it goes a considerable distance on the road to self-government without the sacrifice of essential interests and without embarking on a course which in case of necessity would not permit of reconsideration. Further constitutional development would need neither fresh legislation nor fresh sanction from any authority. Given good sense and goodwill on both sides, progress would be automatic and would take the shape of the non-exercise of the Governor General's powers of control, which would alone stand in the way of complete responsible government, except in so far as the army was concerned.

Our honourable colleague makes it plain that his plan is contingent on the acceptance by Indian opinion of some arrangement in regard to the army on the lines adumbrated by the Statutory Commission. So far as Indian opinion has yet disclosed itself, we see little prospect of any such arrangement being accepted. We do not therefore propose to

examine the practical difficulties which under such a scheme might arise both in connection with the administration of finance and the maintenance of the ultimate responsibilities for law and order throughout the country. At this stage we merely state the scheme. If, contrary to our expectation, Indian opinion were prepared to accept the suggested exclusion of the army from the functions of the central Government, it would be necessary to examine more closely these difficulties and the general implications of this method of approach to the problem.

108. **The solution of dyarchy.**—The second possible method of meeting our difficulties is to introduce into the central Government the system of dyarchy. It might appear strange if dyarchy were adopted at the centre at a time when it has fallen under popular condemnation in the provinces and is there being abandoned. Nevertheless, we must remember that in part at least its condemnation in the provinces was due to the fact that it was only a half-way house, and in the centre we are admittedly concerned to find some constitutional form which will permit of a sharing of power. Further, we have to take account of the fact that the Indian Central Committee have recommended the introduction of dyarchy in the centre. We must therefore examine fully the case for and against it.

109. **Examination of dyarchy.**—Dyarchy is the strictly logical solution of a situation in which it is desired to base the authority of Government in different matters on two different sources. It can be claimed that it constitutes a frank recognition of the facts. There is no ambiguity as to where the responsibility for particular decisions lies, and no blurring of the edges. It is a system plain and precise. And because it eliminates ambiguity it enables each side of the Government to pursue its policy unembarrassed, in a political sense at least, by the decisions of the other. But, however valuable dyarchy may have been in the provinces at the inception of the reforms, in practice it is obvious that a division of the Government into two halves charged with responsibility to different authorities is at best an inconvenient plan. It is easier to divide a Government on paper than it is in actual working, and when dyarchy was introduced in the provinces it had to be recognized that special devices were necessary to promote the co-operation of the two parts which had been formally divided. The Statutory Commission in their review of the working of the provincial constitutions are disposed to think that the object with which the system was established, namely, to make plain the responsibility of the two sides of the Government, was in fact very imperfectly

attained. *" The intention of dyarchy " they remark " was to establish within a certain definite range responsibility to an elected legislature. If this intention is not carried out, the justification for the constitutional bifurcation and for all the complications which it brings in its train is difficult to find ". If, on the other hand, the responsibility on one side to Parliament and on the other to the Indian legislature were constantly emphasized, the task of reconciling these two distinct sources of power would be likely to prove increasingly difficult. Ministers would be bound to concentrate on the responsibility which they owed to the Indian legislature and disregard the embarrassment which their policy might be causing to the reserved side, for the successful working of which they had no responsibility. If for instance, in the central Government commerce were a transferred subject, and finance reserved, it might well happen that a popular policy in the Commerce Department in regard to tariffs might have the most serious effects on the general finances of the country. Nevertheless, if responsibility for the tariff policy had been formally made over to popular control, while responsibility for the general finances of the country was reserved in official hands, there would be little inducement for the popular ministers to moderate their commercial policy and serious friction would be likely to develop. Experience seems to show that it is difficult to work in watertight compartments. If the endeavour is made, the system will break down : if it is not made, the advantages of a formal dyarchy are not clear. It is no doubt argued that dyarchy, by relieving ministers of responsibility for unpopular decisions taken on the reserved side, enables them to continue in office where this would be difficult if they were members of a unitary Cabinet. We do not under-estimate the importance of this consideration, or the embarrassing position that popular members might occupy in a unitary Government. On the other hand, the formal division of responsibility tends to confine the effective action of ministers to the transferred subjects, and deprives them of the opportunity of dealing, except by way of criticism, with the difficult problems of Government which arise in the reserved sphere. Moreover, it must weaken the authority of the Government, when one part of the Government can openly disclaim responsibility for the decisions taken by the other. We are not insensible to the fact that in existing conditions there must be an inherent difficulty in attaining complete unity within the Government at the centre except at the cost of serious lack of harmony with the legislature. But unity should be the ideal, and it does not seem to us to wise course

*Volume I, para. 232.

to emphasize the duality by adopting a system of formal dyarchy. We must look eventually to the emergence of a unitary responsible government, and we should hope that this might be sought through a process of development, whereby the exercise of existing powers will lead by a natural transition to the acquisition of fresh powers, and those fresh powers will be exercised by men who have already acquired some experience in handling them. Dyarchy on the other hand offers no possibility of an extension of the sphere of responsibility except by way of an abrupt transition.

110. **To what extent could power at present be transferred.**—The crucial question which must arise in the consideration of any proposal for dyarchy is where the division between the reserved and transferred spheres is to be made. The proposal of the Indian Central Committee is that only the subjects of defence and foreign and political relations should be reserved. If it became possible to make such a division of power, it may be admitted that some of the difficulties we have indicated above in connection with dyarchy would be diminished. The Indian Central Committee indeed contend that the subjects of defence and foreign relations are sufficiently distinct and separable from the other functions of the central Government as not to produce, if reserved, any of the complications which accompanied the working of dyarchy in the provinces. We are not prepared to go so far as this, but it may be conceded that defence and foreign relations could be separated from the other functions of the central Government, if not without inconvenience, at any rate without giving rise to some of the more acute problems that would result from a reservation of other subjects such as finance and law and order. We are by no means disposed to under-estimate the advantages that would be secured from the adoption of any scheme on the lines indicated by the Indian Central Committee, or to press beyond a reasonable point the administrative objections to a formal division of power. If it were possible to adopt such a scheme, a Government would be established at the centre working in agreement with the legislature, and covering all the principal domestic activities of the country, apart from those which would be directed by responsible Governments in the provinces. There is a strong demand among those who are stirred by the rising feeling of nationalism that India should be allowed to manage her own affairs at the centre, as in the provinces, and, above all, that she should have a chance of devising and pursuing a national policy in matters of finance, commerce and industry, which might improve the general economic conditions of the country. In recent years there has been an increasing volume of

criticism directed to the poverty of India and her economic backwardness. For these features an alien Government is held responsible. There is a widespread belief that the economic disabilities of India could be removed by a national economic policy, and an equally widespread suspicion that the interests of India and Britain in this matter do not coincide, and that, as long as India's economic policy is controlled by Britain, India will not have a fair chance of developing her resources and raising the general standard of life of her people. We cannot of course admit that there is justification for this feeling. But there is no doubt that it exists, and that it is being used more and more to stir up discontent against the present system of government. If it were feasible in the way outlined by the Indian Central Committee to establish the principle of responsible government at the centre, and to put it into practice on a large scale, particularly in the economic and financial spheres, it might be expected that Indian sentiment would be to a great extent satisfied, and Indian suspicions of the real intentions of Britain allayed. But all depends on the possibility of an immediate transfer to popular control of the central administration of finance, commerce, and law and order.

111. **The problem of transferring finance and commerce.**— It must be frankly recognized that the control of finance is fundamental, for finances has a bearing on all the activities of Government. It is sufficient here to state the position in very general terms for we deal fully with the subject in another place. The points which we have found it necessary there chiefly to emphasize are the magnitude of the interests hitherto safeguarded under the responsibility of the Secretary of State, and the serious effects which any transfer of this responsibility might have through its reaction on India's credit.

The financial administration affects the credit of the country, not merely in the limited sense of determining the conditions on which it can borrow money, but in the broader sense of the confidence felt in the administration by all those who do business or have property in India. A serious shock to India's credit, leading as it undoubtedly would to large movements from the country of capital both Indian and European and to a restriction of new enterprise, might have results so far-reaching as to endanger the entire economic fabric on which India of the present day depends. It would do nothing but disservice to Indian interests for the British Parliament to transfer its responsibility for Indian financial administration, until the foundations for confidence in the policy of those who would control affairs under the new régime had been established. At present, in view of the

general attitude of Congress and the talk of repudiation of debt, such confidence, however unjust this may be to India as a whole, is conspicuously lacking.

It is not our purpose to argue that these considerations create permanent and insurmountable obstacles to any transfer of financial responsibility, but the practical conclusion to which we feel impelled is that, before so fundamental a change can safely be undertaken, there must, on the one hand, be careful preparation including the fulfilment of certain conditions, which we define elsewhere, and on the other, Indian leaders must collaborate with the Government in the fulfilment of these conditions, and must on their own account take steps to create confidence in the policy which an Indian government might be expected to pursue. We do not wish to exaggerate the difficulties, but we feel that the greatest service which the present Government can render to India is to face them frankly, and to do its best to work together with Indians to overcome them. We deal more fully with this question in the section dealing with finance.

In one important respect commerce is hardly separable from finance, for the customs head is the principal source of central revenues, and this fact must have its due place in shaping tariff policy. It must be recognized therefore that until finance is transferred the popular control of the tariff would be incomplete. But commerce has problems of its own quite apart from its connection with finance. It may be difficult to devise effective guarantees, which would secure British firms and companies doing business in India against unfair discrimination, and to provide for the efficient commercial management of the railways, which the experience of other countries has shown may be seriously endangered when the management is in the hands of those who must maintain harmonious relations with a popular Assembly. We do not regard either of these difficulties as insuperable, and in a later section of this despatch we shall consider them in greater detail.

112. **The problem of transferring law and order.**—In regard to internal tranquillity, a critical change is being made in the provinces by transferring to popular control the administration of law and order. Until the results of this change have been observed, it does not seem to us possible for Parliament to part with the power to maintain the ultimate guarantees of stability. It is sometimes argued that if law and order is transferred in the provinces, there can be no reason for not following a similar course at the centre. But we have no doubt that the provincial Governments in accepting the proposal of a transfer of law and order in the provinces are to a considerable extent relying on the

maintenance of existing conditions at the centre. It is the central Government which is responsible for the ultimate conditions of internal security throughout the country. It determines the military forces required for this purpose and their disposition. It lays down principles for the administration of the Arms Act. On it rests the duty of keeping intact the general structure of the criminal law and procedure, which forms the essential framework for the maintenance of internal tranquillity. It must co-ordinate information and policy in regard to subversive movements of an all-India character, such as those which are continuously pursued by the terrorists and by the communists, or widespread *anti*-government activities such as the present campaign of civil disobedience. In carrying out these duties it has hitherto seldom been possible for the executive to rely on support from the bulk of popular opinion in the Assembly, and, until experience has been gained of the manner in which similar problems are handled locally by responsible provincial Governments, it is unlikely that Parliament will be willing to contemplate the transfer to popular control at the centre of the ultimate safeguards of security throughout the country. Our honourable colleague who has drawn attention to the scheme described in paragraph 107 wishes, however, to make it clear that in his view the safeguards suggested in that scheme would be sufficient to justify the degree of responsibility, both in regard to finance and to law and order, which is there proposed.

113. **A unitary government.—Proposals of the Commission.**—If there is force in the general conclusions stated above, it would seem necessary to look to some solution on the lines of a unitary Government such as is contemplated by the Indian Statutory Commission. But a decision, in favour of a unitary Government of this type does not get rid of the difficulty that there must be some sharing of power between two different legislative bodies, namely, Parliament and the Indian legislature. The Commission were, no doubt, not less conscious than ourselves of the importance of harmony between the executive and the legislature, and were anxious that whatever is possible should be done to establish satisfactory relations between these two elements. They hoped to achieve this object along three lines. In the first place they have proposed that the members of the Governor General's Council should be appointed not as now by the Crown but by the Governor General. This evidently introduces a considerable degree of elasticity into the formation of the Council. It is not only that the appointment of members in accordance with the requirements of the local situation would be facilitated, but that

they would no longer have a fixed term of office of five years. Under the new system they would in fact, subject to the direction of the Secretary of State, hold office at the pleasure of the Governor General. The Governor General would retain his existing power to make rules for the transaction of business in his Council and to distribute portfolios. We presume that the determination of the numbers of his Council would, subject again to the superintendence, direction and control of the Secretary of State, rest with him. The only formal restriction that would exist on his selection of members of his Council would be that the existing rule would be maintained, under which not less than three of the members of his Council must be persons who have been for at least ten years in the service of the Crown in India. We attach considerable importance to the change suggested in the method of appointment of the Governor General's Council. It does not necessarily lead directly to responsible government, but historically the substitution of the Governor General for the Crown as the appointing authority has proved in the Dominions to be an important condition in the development of responsible government. In the second place, the Commission have suggested that opportunity should be found to include in the executive Council one or more elected members of the Assembly or of the Council of State. It is clear that this proposal has potentialities of great significance, and these we shall proceed to examine. Finally, as we have already mentioned, the Commission lay stress on the power which the elected representatives in the central legislature possess to influence the executive Government in all fields of administration and legislation. They express the belief that this influence will steadily increase and that the executive will become more and more responsive to the will of the legislature. We have no doubt that the Commission have rightly foreseen one of the developments in the relations between the executive and the legislature which must follow on their proposals. But we shall explain in what way we should anticipate that these relations are likely, and indeed certain, to develop.

114. **Inclusion of members drawn from the legislature.**— We now proceed to examine the two features in the scheme of the Commission, which seem to us to require further elaboration. We welcome, as we have said, the proposal that elected members of the Assembly or of the Council of State should be included in the Governor General's Council. But the inclusion of individuals, however prominent in public life, will not in itself secure the object at which we are aiming, namely, the promotion of harmony between the executive and the legislature. As the Commission have pointed* out, there is

*Volume I, para. 235.

a natural tendency to regard even an elected minister under the system of dyarchy as in some degree tainted by his association with Government. When it is a question of joining a Government which cannot technically be responsible, this tendency will be much stronger. Unless something is done to counteract it, we fear that the Governor General will be unable to obtain for his Council the authoritative Indians desired by the Commission, or that if he does obtain them they will soon lose their authority. This tendency would, we think, be accentuated by the suggested provision that on appointment to the executive Council they should cease to hold their seats by virtue of election. Our view therefore is that, if real value is to be derived from a proposal which contains the promise of hopeful developments, it is necessary not only that the members appointed from the legislature should retain their seats as elected members, but that it should be recognized that they will remain in touch with, and responsive to, their political supporters. We develop in paragraph 116 below the conditions on which alone as we believe they might look to retain political influence in the legislature, and so be able to assist Government not only by their personal contributions to the problems of administration, but by bringing to Government some prospect of support for the policy in the framing of which they will have been associated.

115. **The practice of responsiveness.**—An examination of the working of "responsiveness", on which the Commission lay so much stress, leads us by a different road to the same conclusion as that expressed at the end of the last paragraph. Even at present the executive endeavours to be responsive to the legislature. The disadvantages of the system, however, have made themselves very apparent in the experience of the last few years. We have shown above how the function of the Assembly is inevitably one of criticism, as long as it has no responsibility for a constructive programme. Efforts have been made by the Government of India, particularly in recent times, to escape from this difficulty by consulting the party leaders on matters of policy before they themselves reach their conclusions. This system is probably inevitable, given the existing conditions, which would in this respect be reproduced under the proposals of the Statutory Commission, but it has not proved satisfactory. The party leaders have little inducement to have regard to anything other than the popular view as reflected in the Assembly, and the Assembly having no comprehensive responsibility for policy is likely either to take a critical and negative line, leaving the Government still unrelieved of the responsibility for finding a constructive solution for urgent problems, or to advocate

proposals, the full consequences and reactions of which on other interests or in other fields of administration have not been thought out. From the nature of things it is impossible that the party leaders should have the same sense of responsibility as members of the Government. If their advice is accepted and the results prove unfortunate, the discredit falls not on the party leaders but on the Government. If on the other hand their advice is not accepted, the Government is accused of being unsympathetic and unresponsive to the popular view, and there is no improvement in the relations between the executive and the legislature. Indeed if the advice of the party leaders is constantly rejected, these relations are likely to deteriorate. Such a state of affairs really makes neither for harmony between the Government and the Assembly, nor for strength and steadiness of purpose in the Government. We are convinced that if leaders of parties in the Assembly are to be taken into consultation, as they must be on any principle of responsiveness, it is better that they should be inside the Government rather than that they should advise in an irresponsible capacity from without.

116. **How a Government of this type might be expected to work.**—The conclusion of these arguments seems to point to a Government which, while containing a definite official element, and not formally responsible to the Indian legislature, would yet include an appreciable popular element consisting of elected members of the legislature, who might command sufficient support in that body to afford in normal circumstances the promise of reasonable harmony between the executive and legislature. The proportion which the elected members should bear to the official members might no doubt receive consideration, if suggestions on these lines were discussed at the Round Table Conference. It will naturally be asked how the elected members of the Government associated with an official element are to retain their following. The answer is that they must be able over the widest field that circumstances permit to frame policy in accordance with the views of their supporters. This in turn implies that Parliament will be willing to define with some precision the purposes for which it would wish to exercise its constitutional right of interference with the policy of the Government of India, and that so long as the policy pursued does not menace the objects which Parliament declares its intention to safeguard, the Government of India will be at liberty to manage the affairs of India in close association with the Indian legislature. We shall in a later paragraph of this despatch indicate what appear to us essential purposes which His Majesty's Government must safeguard. On the assumption that the exercise of the duties

of paramountcy in relation to the Indian States is transferred from the Governor General in Council to the Viceroy as representative of the British Crown, these purposes may be briefly summarized as defence, foreign relations, internal security, financial obligations, financial stability, protection of minorities and of the rights of services recruited by the Secretary of State, and prevention of unfair discrimination. The primary responsibility for ensuring that these purposes of Parliament were not impaired would rest upon the Governor General, but he would have, to assist him in this task, the three official members of his Government, who would naturally hold the portfolios in which the questions of more particular interest to Parliament were likely to arise. Their position in the Government would presumably ensure that the general administration of such subjects would be in harmony with the views of Parliament, and that there would seldom be occasion for the Secretary of State to interfere by express direction or veto. But the official members would be part of a Government containing, if the system were working successfully, a considerable popular element in intimate relations with the legislature. In these circumstances it seems certain that the official members would not press their views beyond the real requirements of the situation, and that the popular view would receive the fullest consideration. In most cases we should anticipate that the Government would be able to reach united conclusions, which would not infringe the responsibilities which Parliament would look to the Governor General and the Secretary of State to discharge. When, however, there was an irreconcilable difference of opinion between the two elements in the Government, it would be for the Governor General in consultation, where necessary, with the Secretary of State to decide which view was to be supported. If he accepted the popular view, the official members would have the right to record the grounds of their opinions and have them transmitted to the Secretary of State, and would thus know that they had discharged their responsibilities by referring their difficulties to the ultimate authority, whose purposes it was their duty to safeguard. It may be supposed, however, that in matters which raised such issues the Governor General would be reluctant to reject the views of his official members. In that case the elected members might either acquiesce, or they might, whether as the result of pressure from their supporters or of their own personal convictions, tender their resignations. If the elected members resigned on any such issue, it is possible that the Governor General would be unable to get other members with a political following to take their place. In such an event he would be thrown back on the expedient of replacing them either by non-officials with no popular follow-

ing or unconnected with politics, or in the last resort by additional officials. If this happened the progress towards the development of responsible government would be interrupted, but there would be no question of suspending the constitution, and the Government would continue to function, though it would have to encounter the hostility of the legislature. The situation however would be no worse than if an unpopular measure or policy had to be pushed through or under the system sketched by the Statutory Commission. On the other hand, we are disposed to think that forces would be at work tending to restore the situation. We contemplate, as we have said, that the legislature would through the elected members have real power to pursue its own policy over a wide field. It seems unlikely that it would for a long period deprive itself of constructive power over policy merely in order to register its dissatisfaction at some particular measure. The greater the power the legislature had acquired, the less would it be likely to persist in such a course.

117. **Possibilities of deliberate obstruction.**—We must make it plain that the above argument proceeds on the basis of a general desire to work the constitution. We have not overlooked the possibility that in the earlier years of any new constitution there may be a party whose object is to exploit all political difficulties with a view to wresting from His Majesty's Government further political advance. The existence of such a party would undoubtedly increase the probabilities of the Governor General being deprived of the support of the legislature in carrying on his Government, and being thrown back for a time on an almost completely official composition. We should greatly deplore such a contingency, but, if necessary, it would have to be faced. In the long run we believe that the forces of reason and orderly progress would triumph over those of negation and obstruction.

118. **The scope of the popular element in such a Government.**—Hitherto we have been considering whether the kind of Government we have sketched would be capable of maintaining the objects which Parliament would wish to safeguard, and whether in so doing it would be likely to retain the popular element. We turn now to the wide scope of activities and responsibilities which would present itself to the elected members of the Government. In the first place they would within the Governor General's Council be enabled to press their views on all subjects, with knowledge of the strength which these views must derive from the support of the legislature. In the second place there is a large sphere with which we should hope Parliament would not find

it necessary to concern itself. Throughout this sphere we contemplate that the Governor General would be guided by the advice of those of his Council who represented the wishes of the legislature, and we would suggest that the Instrument of Instructions to the Governor General should contain a definite provision to this effect. A convention of this kind would offer a wide field for constructive work and for practice in the art of formulating and carrying through a popular policy, and thus the foundations of self-government at the centre would be laid. The official members of the Government would express their views and give counsel on these matters, but it would be recognized that here their primary duty was to see that the purposes of Parliament were not infringed.

119. **Members not removable by the legislature.**—From the point of view of maintaining the unitary character of the Government, we think it important that the members of Government chosen from the legislature should not be subject to direct votes of censure by the legislature or regarded by convention as liable to removal by that body, and that their salaries, like those of the official members, should not be submitted to the vote. It might be that the elected members lost popular support through no action of their own, but as the result of measures taken by the Governor General in exercise of his responsibilities to Parliament. If that were so, nothing would be gained by attempting to select new members from the legislature, for the act of joining the Government would in such case deprive them similarly of popular support. If in these circumstances the existing elected members were prepared to remain in the Government, the Governor General would clearly not wish to change them. But one or more of the elected members might lose his following for reasons other than his association with a Government which in discharge of its responsibility to Parliament had felt obliged to take action bringing it into conflict with the Indian legislature. In that case the Governor General would naturally see whether he could find other members of the legislature, who would more truly represent its views on those matters in which the framing of policy would primarily lie with it.

120. **Objections to a Government of this type.**—We are conscious that it is easy to take objection to a constitution drawn on the lines which we have attempted to indicate. It involves a form of dualism within the Government, it will not work harmoniously without goodwill, it can be attacked on the one hand on the ground that, owing to the strong influence of the elected members and the legislature, the responsibilities which the Government of India owe to Parliament will

not be fully discharged, it can be attacked on the other hand for its failure to offer clear cut responsibility on the popular side. Most of these objections are inherent in any attempt to share power. For the success of any such attempt it is necessary to assume a measure of agreement. Without this no constitution will function satisfactorily. It may be that some other method than the one we have adumbrated can be devised. But let the main elements of the problem be remembered. The executive must own responsibility in certain matters to Parliament. The legislature must on any supposition have a substantial popular majority. If a completely irresponsible executive is confronted by a predominantly popular legislature, the result must be intolerable friction. This is recognized by the Indian Statutory Commission, who have made certain proposals designed to reduce the probabilities of friction. We feel that those proposals point in the right direction, but that in order to produce a workable system of Government they must be interpreted and developed somewhat on the lines which we have sketched in the preceding paragraphs, and that it is essential to their working that Parliament should be willing to define with sufficient clearness the purposes for which it might deem it necessary to intervene. There may be other possibilities more acceptable to Indian opinion, and we consider that any alternative proposals that may be put forward to safeguard the purposes of Parliament should receive full consideration. We have already explained what appear to us to be the serious difficulties of any statutory and rigid distribution of subjects of administration to distinct portions of the executive with different responsibilities. If, however, it would help the admittedly difficult position of the popular members under the unitary scheme we have outlined that the conventional division of responsibility within the Government should be formally recognized, we should be prepared to make this sacrifice of the forms of unity, provided we might expect to maintain such a degree of harmony and co-operation between the two elements in the Council as would secure to the popular element training and experience over the whole field of Government, and to the official element reasonable support in the legislature.

121. **Powers of the Governor General.**—To complete our picture of the central executive it is necessary to consider specifically the powers which the Governor General will exercise and the position he will occupy. It is evident that the powers of the Governor General in relation to the legislature must remain unimpaired. In regard to legislation he must retain his existing powers of previous sanction and assent, and of

stopping proceedings on any bill which in his opinion affects the safety or tranquillity of British India. He must also retain his power of securing the passage of essential legislation by means of certification. We think, however, that the procedure of certification might well be made more simple and elastic. The Governor General should also retain his emergency power to make ordinances. In regard to the provision of money, the Governor General would keep his existing power to authorize, in cases of emergency, such expenditure as might, in his opinion, be necessary for the safety or tranquillity of British India. The power of restoring demands which have been refused by the Legislative Assembly is placed by the existing Act in the hands not of the Governor General but of the Governor General in Council. We think that in the new constitution this power would more appropriately be exercised by the Governor General. It will not be desirable to bring the Governor General in Council unnecessarily into conflict with the Assembly. The general principle of the suggested constitution is that the power to overrule the legislature should reside in the Governor General and we see no reason why this principle should in this one case be abandoned. It seems to us wiser to place the responsibility for securing supply, as for the passage of legislation, directly on the Governor General.

The relations of the Governor General with his Council will be fundamentally changed by the provision that members should be appointed by the Governor General instead of by the Crown. The elaborate provisions contained in section 41 of the Government of India Act for the Governor General overruling his Council will no longer be required. Technically indeed the Council will cease to be the colleagues of the Governor General and will become his advisers, and it will have to be made plain by statutory provision, either direct or indirect, that if the Governor General sees sufficient cause he may act otherwise than in accordance with the advice of his Council. We have already explained in paragraph 116 what we anticipate would be the possibilities open to the official and to the popular members when action is taken not in accordance with their advice. The appointment and dismissal of members of the Council by the Governor General will be subject to the superintendence, direction and control of the Secretary of State. It may be expected that the Secretary of State will not as a rule wish to be consulted in regard to the popular members. But we should anticipate that he would find it necessary in the discharge of his own responsibilities to require that the Governor General should not take action to appoint or to remove any official member without his specific concurrence.

122. **Potentialities of development.**—It must be expected that any scheme of government at the centre will be judged by Indian opinion on the promise it affords of development into full responsibility. We think that the suggested form of unitary government leaves the path open for such development on natural lines, and this is in our view perhaps its main attraction. No abrupt changes would be required. As Parliament recognized that the Indian legislature did not desire to pursue a policy inconsistent with the fundamental purposes which Parliament wished to secure, the occasions for interference would become less frequent. Simultaneously the necessity for retaining the official element in the Council would diminish. This element would with the approval of Parliament gradually be reduced, leaving what would in effect be a Government progressively responsible. Development would come, by normal constitutional evolution, through the wise use by the Indian legislature of its opportunities. Until such time as India is able to make her own provision for defence and internal security, we recognize with the Commission that special arrangements would be necessary for these subjects and for foreign policy. But over the rest of the field the process we have indicated might continue without interruption. This natural growth of the powers of the Indian legislature, through Parliament permitting its own powers of control, retained for specified purposes, to fall into disuse, could be accelerated if the intervening period were used to fulfil certain conditions, by which Parliament might be reasonably assured that its purposes were secured. As regards minorities, Parliament would no doubt require that adequate provision based on mutual agreement should be made for their rights and interests. In the spheres of finance, commerce and railways, we indicate below the conditions on which progress seems to us to depend. Finally, when Parliament had been assured of the successful working in the provincial field of the transfer of law and order, it might be willing to see the central administration of this subject placed in popular hands. When matters of this sort had been satisfactorily adjusted, a wide and definite transfer of power might take place, for the completion of this task would furnish proof to Parliament of India's ability to assume responsibility for those subjects, over which Great Britain would at present be likely to feel it necessary to retain a measure of control. In the meantime the preparatory work leading up to this transfer of power might be carried out, with perhaps a large measure of unanimity, by the kind of unitary government containing a popular element which we have sought to portray.

THE CENTRAL LEGISLATURE.

123. **Two preliminary points.**—We began our consideration of the problem of the central executive by presenting a general picture of the existing constitution of government at the centre, and the way in which it works. We discussed the relations between the executive and the legislature, and gave some prominence to the importance of trying to establish reasonably harmonious relations between them. We accepted the view of the Commission that the present popular character of the legislature should not be impaired, and made certain suggestions which seemed to us to flow from that conclusion for the construction of the central executive. The next matter with which we must deal is the composition of the central legislature. There are however two preliminary points which we wish to take. They are perhaps sufficiently obvious in themselves, but we think that it may be an advantage to state them. The first is again to emphasize the close inter-relation between the two questions of the construction of the executive and the composition of the legislature ; the second, which indeed follows from the first, is to disclaim any intention of putting forward suggestions here and now to give the central legislature its final form.

124. **The central legislature and public opinion.**—The reconstruction of the Indian legislature is perhaps the least vivid of the issues which have arisen in the recent political life of India. Under the present constitution the two chambers were constructed on principles which accorded well with the sentiment of the country, and it is possible that if India had not been formally confronted with the occasion *for bringing under review every feature of the constitution*, comparatively little attention would have been directed by practical necessities to this portion of the structure. So far as Indian constitutional thought has expressed itself, it does not stray far from the principles which the present legislature reflects. For the Assembly a number of the earlier schemes, and later the Nehru report, proposed a basis of adult suffrage, but it is perhaps a not unfair comment that these proposals were either the results of study of systems developed in other countries, or were put forward as a device for surmounting communal difficulties. Though some provincial committees recommended a limited element elected by provincial legislatures the general trend of opinion has been in favour of a directly elected, but enlarged, Assembly. The alterations proposed by the Indian Central Committee are matters of detail rather than of principle ; nomination is used to remedy inequalities in representation.

to retain officials, and to introduce experts without the right to vote.

As regards the upper house the prospect of a unicameral central legislature makes little appeal. The structure of the Council of State has attracted little attention. It is true that the Nehru report proposed to compose it through indirect election by the provincial councils after the method of proportional representation, but the general trend of provincial opinion leaves the Council of State much as it is now, and the Indian Central Committee would alter it only so far as to increase its numbers.

125. **Indirect election proposed by the Commission.**—We now have before us the recommendations of the Commission for radical changes in the construction of both chambers and the substitution of indirect for direct methods of election. The views on these recommendations expressed by local Governments show considerable divergencies, and opinions within each Government are often divided. The general impression, however, conveyed to us by the reports of the provincial Governments is that public opinion is not favourable to the changes which the Commission propose. So far as opinion has yet been made articulate, it appears, among Hindus, to be hostile to indirect election ; and, among Muslims, to be divided according to calculations of its effect on the representation of the community which it would secure. We cannot regard as final any of the views yet expressed. If after full consideration Indian opinion were to pronounce clearly in favour either of indirect or direct election, we would only on very strong grounds advise His Majesty's Government in a contrary sense. Our own view is that on principle the arguments in favour of direct election as the ultimate system for a Federal Assembly are the stronger, but we find definite practical advantages in the scheme of indirect election which the Commission put forward. The task, therefore, which we shall set ourselves in the paragraphs which follow, is to try to set out as fairly as we can some of the merits and demerits of the two systems of election, direct and indirect. But we defer our own final conclusions until the matter has been thoroughly discussed at the Round Table Conference and Indian opinion has expressed itself fully.

It will be convenient to deal first with the Assembly, and then with the Council of State.

The Lower House.

126. **The federal principle.**—The Commission have proposed that the Legislative Assembly should be reconstituted as a Federal Assembly* " the members of which would not

*Volume II, para. 135.

be directly elected by constituencies of voters, but would be mainly chosen, in proportions which we shall have to indicate, by the provincial councils ". If the central Government is to develop on federal lines, the Commission consider that* " the adoption of a method which will represent the provinces as such at the centre is extremely desirable ", and seems almost essential for the ultimate inclusion of the States. It may be that the representation of provinces by indirect election might facilitate at a later date the representation of the States in the Federal Assembly, but we would make two comments. The first is that it is far from certain that federation for the whole of India will come about by the inclusion of the States in the Assembly. It may be that some new federal organ will be developed. The second is that even if the States did enter the Assembly, it does not appear to us to be necessary that the method of representation of the States and the provinces of British India must be uniform. We should therefore hesitate to put the federal argument of the Commission too high.

127. **The representation of provinces.**—More substantial support for the principle of indirect election by provincial councils is found in the general relationship which the Commission desire to establish between the centre and the provinces. They remark that it is important that the provincial view should be brought to bear upon central administration, the more particular function which they have here in mind being the provision of revenue by the central Government for distribution to the provinces. So far as this function is to be exercised through the medium of the provincial fund proposed by the Commission, we may observe that decisions affecting this fund will be only occasionally before the Assembly, and it might be argued with some force that, in determining the composition of the Assembly, we should have regard to its suitability for dealing with the broad political issues that will normally be before it, rather than with a function performed only at infrequent intervals. According to Sir Walter Layton's scheme, however, the improvement of the financial position of the provinces will depend very largely on the surrender to them of central sources of revenue, and from this it would follow that they would have a direct interest in the whole financial administration of the central Government. This is a consideration of great importance, and it would not be unnatural for the provincial Governments to seek some means of protecting their interests, and for this reason to support the substitution of indirect election by the provincial councils in place of direct election to the Assembly. At the same time there is room for some misgiving whether

*Volume II, para. 138.

so great a degree of provincialization would be desirable in the lower house of the central legislature. The consequences on central administration might be serious, and might result in a policy unfavourable to the general interests of the country.

128. **The responsibility of the member.**—Another argument advanced by the Commission is that the method of indirect election may be expected to afford *" a closer nexus between the member of the Federal Assembly and the provincial council ". The argument is based on the view which the Commission have taken of the general operation of the directly representative system, and their conclusion is that as the members of the Assembly cannot be subject to any real control by electors in territorial constituencies, they would feel greater responsibility to a provincial legislature. We shall revert in a later paragraph to the question of the size of constituencies under the direct method. Here we are concerned only with the relations which the Commission desire to encourage between the Federal Assembly and the provincial councils. Subject to the remarks which we have just made, we appreciate the advantages of establishing a link between the central and provincial legislatures. Indirect election by the provincial councils is probably the best method of securing that purpose ; but it would still seem open to question whether the provincial contingent at the centre would acknowledge any real responsibility to the provincial councils. It must be remembered that members of the Assembly will retain their seats even when provincial dissolution has brought about the disappearance of the electors who returned them ; and if elected, as suggested by the Commission, under the method of proportional representation, the tendency of each representative would be to look only to the particular group or interest which elected him.

In effect, so far as the Commission's scheme of indirect election rests upon the requirement of provincial representation at the centre and the need for a greater sense of responsibility on the part of the member, a dilemma is produced. Either the provincial contingents would be controlled by the provincial councils, and the central legislature be excessively provincialized ; or they would not be controlled by the provincial councils, and the responsibility of members to those who elected them might be even less than under the existing method of direct election from large general constituencies.

129. **Proportional representation.**—The Commission claim that if use were made of proportional representation in selecting members for the Federal Assembly, it would be

*Volume II, para. 138.

possible to get rid of specific provision for separate communal representation. The Federal Assembly would no longer have to be constituted by the present method of classifying constituencies. At the outset the system would no doubt produce reflection of communal divisions. But in proportion as general considerations came to bulk more largely in the political judgment of the provinces, it would enable members to be returned to the Assembly on a more general view of their merits and political opinions. A result of that kind, involving an automatic decision of communal claims, would in our judgment be an attractive feature of any scheme, and we would hesitate to reject any plan which promised to get rid of precise communal proportions in the composition of the legislature. But just as in the absence of agreement between the two major communities separate representation for Muslims in the provincial councils must continue, and an adequate number of seats must be guaranteed to them, so we think that the question of the abandonment or the retention of direct representation at the centre ought to depend very largely upon the attitude which communities may adopt towards such a proposal. Subject to this, and apart from our own views on the more general aspects of indirect election, we wish to make it clear that we do not undervalue its possibilities as a means of avoiding specific communal representation at the centre.

130. **Personnel.**—The Commission have not alluded to the possible effects of indirect election on the personnel of the Assembly. There is, however, a body of opinion which suggests that the choice of the provincial legislatures would be more judicious than that of popular electorates, and further that if election were to be indirect, persons of local position and experience, who are at present unwilling to face the trials of popular elections might be more ready to come forward. We doubt whether the expectation is very securely founded. One result of employing the machinery suggested by the Commission would very possibly be to induce political associations or parties to make special efforts to capture seats in the provincial councils, not on provincial issues, but in order to secure the return of members who could be relied upon to vote for candidates of a particular type to the central legislature.

131. **The confusion of electoral issues.**—Indeed, the rôle which under the Commission's scheme political associations might play in central and provincial politics raises issues immediately relevant to the success of the new constitution. Under the method of indirect election, it will be the first concern of any party wishing to enter the Assembly to secure its own electors in the provincial legislatures. The whole

weight of all-India political associations would, therefore, be directed upon the local legislatures, where the novel experiment in the use of the transferable vote will itself tend to throw the business of the elections into the hands of party managers. Again, the Commission appear to assume that the judgment of the primary elector will have regard on provincial issues to the particular policies of candidates and on central issues only to their general suitability as electors for the central legislature. We doubt whether electoral campaigns would in practice observe these limits, and we should expect that the simultaneous reference of central and provincial issues to the electorate will have a disturbing effect. There is reason to fear that developments on these lines would introduce divergent issues into provincial politics, and invest them with an element of confusion and unreality. We regard this as a real danger in the plan of indirect election by provincial councils.

132. **Dissolution.**—There is another undesirable feature of indirect election as a means of constituting the Assembly which seems to us to be of importance in regard to the position of the executive. The Commission describe* the inconveniences which may arise when a general election becomes necessary on the expiry of the life-time of the Assembly. Means are devised by which in such circumstances the minimum of disturbance of provincial legislatures may be caused. It is, we presume, on similar grounds that the Commission have proposed that the Assembly should have a fixed life, and in fact there would be difficulties in combining a liability in the Assembly to dissolution with a similar liability in the provincial legislatures. We agree with the Commission that on the one hand general elections in provinces cannot be entirely dependent on the necessity to reconstitute the Assembly; and, on the other, that the choice of members of the Assembly cannot be left to provincial legislators, who have not been in comparatively recent touch with the electors. The proposals of the Commission give this degree of security to provincial legislatures that at the worst there is a guarantee of two years life, and the date of compulsory dissolution is known. If, however, the Assembly itself were liable to dissolution, the tenure of all provincial legislatures, which had still more than three years life before them, would be insecure. It appears therefore that on practical grounds an indirectly elected Assembly must be incapable of occasional dissolution, and we consider that this must definitely be regarded as an objection in the scheme. It may be argued that the weapon of occasional dissolution could probably not be effectively used in any circumstances which could be expected to prevail during the next few years but we should

*Volume II, para. 135.

be unwilling to deprive the Governor General of this power. With an Assembly constituted for a fixed period and not liable to earlier dissolution, one of the normal means of removing deadlocks would be sacrificed, while the legislature would be guaranteed for a known period against the effective interference of the electorate. We greatly doubt whether this could be regarded as a satisfactory arrangement.

133. **Review of indirect election.**—We have endeavoured in the preceding paragraphs to run rapidly over some of the salient points, arising out of the Commission's recommendation to substitute indirect election by the provincial councils for the present system of direct election by territorial constituencies. The subject is very complicated, and some of its aspects are highly technical. Theoretical and practical considerations are difficult to disentangle, and in estimates of the manner in which any particular electoral system may be expected to work, there is necessarily a large element of speculation.

It has not been our object to indulge in merely destructive criticism. In no country has an electoral system yet been evolved, which is not open to objection. The choice is not between a perfect and an imperfect system, but rather depends upon the balancing of advantages on either side. We readily admit that indirect election possesses advantages from the point of view of the federal principle which direct election cannot give. As a general proposition and on the considerations arising out of Sir Walter Layton's proposals for finance, we are disposed to welcome a closer connection between the central and the provincial legislatures. The chance offered of getting rid of specific communal representation at the centre is not lightly to be discarded. It is only when we set ourselves to examine the actual working of the indirect system, its probable effect on the constitutional machine at the centre, and its possible consequences in the provinces, that doubts arise. Some of these we have already expressed. The confusion of electoral issues between the centre and the provinces, the dangers of excessive provincialization in the central legislature, and the election of the latter for a fixed term, all seem to us to contain the seeds of future complications. We are also impressed by the objections to an allocation of seats in the Assembly on a purely population basis. The alternative is an unequal allocation somewhat on existing lines, which proceeds from an artificial weightage of provinces. But any attempt to combine such a weightage with a natural representation of communities throughout India by an automatic method is likely to encounter great difficulties.

Again, there are troublesome and perplexing details arising out of the use of proportional representation.

Since eight legislatures will be empowered to create a single legislature, somewhat larger than any one of them, and containing under the Commission's scheme approximately 250 members, we would anticipate two results. We would expect that the members of provincial legislatures, as electors, would be called upon to express a number of preferences, which must normally exceed thirty and may run to considerably larger figures. We have been unable to discover any sufficiently analogous precedent from which to judge how the system of proportional representation, when applied on this scale, may be expected to function. The second result of the system is that the number of votes which would suffice to secure a candidate's election by a provincial legislature would be on an average from province to province as small as eight. The use of restricted quotas for a system of election, which must be secret, causes us considerable anxiety, for we cannot but attach importance to fears already expressed that a wide door is thereby opened to the employment of improper methods. Moreover, as we have already said, there is reason to doubt whether quotas so small will in fact induce any real sense of responsibility in the successful candidate.

On the sum of these considerations we would ourselves incline to the conclusion that a method whereby the Assembly would be wholly or mainly constituted by indirect election would not be suitable. The certain objections seem to us to outweigh the possible advantages.

134. **A mixed system.**—On the other hand, in view of the real advantages offered by the indirect method, we think that it deserves consideration whether these advantages could not by some means be attained without involving the objections to which we have drawn attention.

An Assembly comprising elements drawn from both direct and indirect election, securing on the one hand "territorial" representation through indirect election by provincial councils, and, on the other, the representation of the "all-India" point of view and of special interests partly by direct election and partly by nomination, might secure advantages and eliminate disadvantages on both sides. Such a method of constituting the Assembly would admittedly still be open to the disadvantage that it would remove the possibility of making an effective appeal to the country in the event of disagreement between the executive and the legislature; and for this reason we are doubtful whether such a plan would be permanently suitable in the later stages of the development of the constitution. But it is arguable that this objection need not be conclusive before complete responsible government at the centre is introduced. As a transitional arrangement during the period, when the relations between the centre and

the provinces have to be adjusted and the stresses and strains created by these relations taken up, there would be much to be said for having a central Assembly in which " all-India " views and " provincial " views could each be stated by their own respective representatives in debate. We think that a scheme of this nature might usefully be examined. We foresee difficulties, particularly in the matter of securing proper communal representation, but it is possible that these might be corrected by providing special communal constituencies among the quota reserved for direct election, this method perhaps being further reinforced by nomination in certain cases. We have not been able to work out in detail an electoral project on these lines, but we hope that the practicability of such a scheme might be considered along with other alternatives at the Round Table Conference.

135. **Direct election.**—We now turn to a brief consideration of the system of direct election. The most obvious and perhaps the most grave defect of direct representation is, as the Commission have observed,* " the unwieldy and indeed extraordinary size of many of the existing constituencies ", rendering in their view reality of representation impossible. The difficulties of polling even a limited electorate over an area so vast and of such varied physical characteristics are evident. In the past direct election has certainly not secured that intimacy between voter and candidate which it attains in small compact countries, and we may expect personal contact to become more difficult when the franchise is extended. Nevertheless there are other considerations, of which we consider that account should be taken before a definite break with direct territorial representation is made. The real point at issue is whether the physical conditions of India in fact make direct election ineffectual.

We believe the facts to be somewhat as follows. First, the central elector has exercised the franchise with increasing readiness and at least as freely as the elector to provincial councils. A great deal of the business of the central legislature is as intimate to the elector, and is as fully within the scope of his understanding, as the business of the provincial councils. We need cite only such matters as the Sarda Act, the income-tax, the salt tax, the railway administration, and postal rates. Even more abstruse matters, such as the exchange ratio and tariffs, interest large sections of the electorate. Second, the electoral methods natural to the social structure of India may be held to some extent to replace personal contact between candidate and voter, a contact which adult suffrage and party organizations make increasingly difficult in western countries. The Indian elec-

*Volume II, para. 137.

torate is held together by agrarian, commercial, professional and caste relations. It is through these relations that a candidate approaches the elector, and in this way political opinion is the result partly of individual judgment, but to a greater extent than elsewhere of group movements. These relations and groups provide in India a means of indirect contact between voter and member, reducing the obstacles which physical conditions entail. Moreover, we are impressed by the further consideration that ten years ago Parliament of its own motion set up for the first time a directly elected Assembly, representative of the whole of India. That Assembly, in part perhaps because it is directly elected, has appealed to the sentiment of India, and sown the seeds, as yet only quickening, of real representation. Accordingly, unless new considerations of greater importance have to be taken into account, we feel reluctant as yet to condemn an experiment undertaken so recently in a country awakening to political consciousness.

136. **Advantages and disadvantages.**—On these general grounds we would hesitate to hold that the orthodox method of representation by direct election is unsuited to the conditions of India. It may be admitted that during these ten years direct election has not achieved all the results which Parliament perhaps hoped, nor has it overcome all the obstacles which the vast size of the country and the complication of separate electorates impose. But in many ways its success has been growing, and it has contributed to the strength of the Assembly as a focus of national allegiance. On the other hand it would not provide that expression of provincial views as such which may be judged desirable in the new conditions contemplated by the Commission. In financial matters, in particular, this defect may be serious. But, as against a plain alternative of indirect election, we believe that the balance of the argument is in favour of the maintenance of direct election.

137. **Summary.**—We have now examined briefly the methods of direct and indirect election. For the circumstances which exist to-day in India there is no parallel in constitutional history, and the question is admittedly very open. The opinion of provincial Governments is divided in regard to it. Without forming any final conclusion, we have expressed a preference for direct election, but have suggested that it may be found possible to devise a combination of the direct and indirect methods, which might go far to reconcile the different considerations which have force on either side. One of the two preliminary points which we took, when approaching this question of the composition of the Indian legislature, was to disclaim any intention of suggesting its

ultimate form. Those who support the Commission's scheme can similarly maintain that its adoption to meet present conditions should not be taken as committing the country for all time to the indirect method of election. It is not impossible that, viewed in the light of practical expediency, the Commission's proposals may attract considerable support. But, in any case, we feel that the method of election is essentially a matter, on which the considered judgment of Indian opinion should have great weight. We would ourselves be much influenced by the trend of discussions at the Round Table Conference upon it.

138. **Nomination.**—We turn now to the broad questions of the composition and size of the Assembly. The first point for consideration is the extent to which a nominated element should be retained. We have already expressed the view that the difficulties inherent in the problem at the centre would be greatly enhanced by constituting the executive and the legislature on principles which would widen the gap between them. If the proposals we make for a partnership between Britain and India, in the government of India, are accepted, it would seem to follow that there should be partnership in the legislature as well as in the executive. A wholly responsible executive would naturally obtain support in a wholly popular Assembly. But if at present the executive must be, either by specific provision or by convention, of the composite character we have envisaged elsewhere, it can hardly count on obtaining adequate support for its administration as a whole, merely through the connections of its political members with the legislature. Accordingly, we do not think that the time has yet come for the abolition of the nominated portion of the Assembly. We would retain nomination for the two purposes of curing inequalities or defects in representation by election, and of obtaining some additional support in the Assembly for an executive of the form which we contemplate. We would in this way secure an element to represent the unenfranchised and inarticulate, as well as spokesmen who would explain and defend the purposes for which Parliament must retain interest in the administration of India. We would not increase the present number of members entering by the door of nomination, and we would allow the proposals, which we proceed to make for the enlargement of the Assembly, to have effect in reducing the weight which the nominated element will in future have in debate and division. The proportion in which nominations might be divided by the Governor General between officials and non-officials should we think be elastic. As harmony between the new executive and the Assembly grows, as we hope it will, it should be possible

to make a diminishing use of nomination for the inclusion of officials. But the necessity for maintaining strength in the central Government forbids too drastic a limitation of the Governor General's power to secure some measure of assured parliamentary support. We hope that the necessity for the use of that power will finally disappear, but in present conditions we consider its retention a wise precaution. We would therefore impose the present maximum on the nomination of officials, but otherwise leave the discretion of the Governor General in his choice of official or non-official nominees unrestricted.

139. **The size of the Assembly and its life-time.**—The total number of the members of the present Assembly is 145. We consider reasonable the general desire for some enlargement, but practical considerations must, we think, control the increase in membership. There are limits to the number of officials who can sit in the Assembly, and limits also to the extent to which nomination can be used without embarrassing results. While we agree to some reduction in the existing proportion of nominated to elected members, it is essential that the relative strength of the former should be sufficient to enable them to discharge the functions which we have described in the preceding paragraph. Our general aim therefore would be a house somewhat larger than at present, and we should contemplate a maximum strength of 200 members. We should expect detailed and local examination to show that constituencies, which arrange the present electorate in suitable groups, and maintain the existing provincial proportions, need not number more than about 150, and that a maximum strength of 200 members would be appropriate for a house including also representatives of special interests, and a nominated element.

We accept the proposal of the Commission and of the Indian Central Committee that the life of the Assembly should be five years.

140. **The franchise.**—The problem of the franchise for a directly elected Assembly has naturally not presented itself to the Commission, and in consequence has not elicited any expressions of opinion from the provincial Governments. It was not mentioned by the Indian Central Committee. If direct election is retained, we would be disposed to favour some extension of the franchise, in view of the smallness of the present electorate and its general character. Any reduction in the proportion of the nominated element in the Assembly, official and non-official, which at present alone represents the unenfranchised and inarticulate, makes an extension of the franchise more desirable, and we think that the

franchise qualification should be investigated by the Franchise Committee, with instructions to make suggestions for a reasonable extension.

141. **Constituencies.**—We do not desire to cover again the ground of communal representation and the forms which it might take, so fully explored by the Commission.* We are in accord with their general conclusions and, in the absence of agreement at the centre, would feel bound, in a directly elected Assembly, to retain communal representation, derived from separate electorates, approximately in its present proportions. The territorial constituencies would then be differentiated as non-Muslim, Muslim, Sikh and European. We would keep the existing distribution by provinces, unless on further examination some modification seemed necessary and feasible, but we would aim at carrying into effect the proposals of the Commission for the elected representation in the Assembly of the centrally administered areas. The special interests to be represented by election might continue to be those of landholders and Indian commerce. We think it important that European commerce should be directly represented in the Assembly.

142. **Illustrative statement.**—While we have left open the question whether the Assembly should be constituted by direct or indirect election, we think it may be an advantage if we show in detail the composition we would suggest for a directly elected Assembly. The Assembly would have a total maximum strength of 200 members, including 150 members returned by territorial constituencies. The 50 remaining seats would be filled by the return of 12 members by direct election to represent the interests of landholders and Indian commerce, and by the nomination of 38 members. The former category would include, as at present, 7 representatives of landholders and 5 representatives of Indian commerce. The nominated category would contain a limited number of officials within a maximum of the present figure of 26, and would provide for the representation *inter alios* of the depressed classes and labour, until conditions permit the use of direct election by these interests.

The statement which we append does not comprise all the 200 seats. It has been prepared in illustration of a possible distribution by provinces and communities of the 150 seats, which would be filled by election from the general territorial constituencies, and to show a comparison with the existing arrangement.

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* Volume II, para. 70 *et seq.*

Province.	Existing distribution of general seats.	Revised distribution of general seats on the basis of existing proportions.	Existing and revised distribution of seats among territorial constituencies.								Remarks.
			Non-Muhammadan.		Muhammadan.		Sikh.		European.		
			Existing.	Revised.	Existing.	Revised.	Existing.	Revised.	Existing.	Revised.	
Madras	14	23	10	16	3	5	..	..	1	2	
Bombay	13	21	7	11	4	7	..	..	2	3	
Bengal	15	24	6	10	6	9	..	..	3	5	
United Provinces ..	15	24	8	13	6	9	..	..	1	2	
Punjab	11	18	3	5	6	10	2	3	..	..	
Bihar and Orissa ..	11	18	8	13	3	5	..	..	..	..	
Central Provinces (including Berar).	5*	8	4	6	1	2	..	..	..	..	*Includes one technically nominated seat filled as the result of an election in Berar.
Assam	4	6	2	3	1	2	..	..	1	1	
Delhi	1	2	1 (General)	1	..	1	..	..	..	..	
Ajmer-Merwara ..	1	1	1 (General)	1 (General)	..	..	..	..	..	..	
Total ..	90	145	50	79	30	50	2	3	8	13	
North-West Frontier Province.	1 (nominated).	3	..	1	1	2	..	..	..	..	
Coorg	..	1	..	..	..	..	..	..	..	..	
Baluchistan ..	..	1	..	..	..	..	..	..	..	..	
Total ..	91	150	..	..	..	..	..	..	..	..	

The Upper House.

143. **The need for a strong second chamber.**—"The Council of State", the Commission remark,* "represents the more conservative elements in the country and, in particular, sections of society which have most to lose by hasty and ill-considered legislation". We believe that danger of such legislation will long continue and that a second chamber will always be required as an element in the Indian legislature. There are, however, reasons why at the present stage the Council of State should be composed with particular care. It is not proposed to have a form of purely popular government at the centre, and a unitary executive, however amenable to the influence of the Assembly, cannot be directly responsible to it. In these circumstances, we cannot expect that harmony between the executive and the lower house will always prevail, and the merits of administrative policy may not invariably receive that consideration which the executive would desire. It is of importance, therefore, that there should be a second chamber, so constituted as to be *able to give to the executive reasonable and discriminating support. Again, the Governor General will continue to be charged with the duty of securing those purposes which will be the concern of Parliament, and it is desirable that,* as far as possible, these powers should not be brought into play in opposition to the wishes of the Assembly, until the decisions of that body have been reviewed by the calmer judgment of the Council of State.

144. **Numbers and qualifications of members.**—The Council of State has in the past exercised to the great benefit of the country the functions which we have just described, and we think that it should remain much as it is at present. We concur in the conclusions of the Commission that the numbers and the proportion between elected and non-elected should be left unchanged, and that the qualifications for membership of the upper house should continue to be high. The present qualifications for membership are the same as for the franchise, and we agree with the Commission that they might in future be perhaps less wide than at present. An enquiry into suitable qualifications might well be undertaken on the lines suggested by the Commission.

145. **The electoral method.**—The present method of returning members of the Council of State by direct election has been successful in composing the upper house on suitable lines. Our own preference would be for maintaining the pre-

*Volume I, para. 247.

sent system, but we recognize that, if the Assembly were to continue to be constituted on the basis of direct election, there might be some advantage in taking occasion through the Council of State of familiarizing men's minds with the federal idea and the system of indirect election proposed by the Commission. We would, however, make our acceptance of change in the existing method of election conditional upon two objects being attained. We should wish to be satisfied that the change involved no prejudice to the rights of minorities. Our second proviso would be that the change commended itself to public opinion. Subject to these two considerations, we should be prepared to accept the proposals of the Statutory Commission.

146. **Nomination.**—There are two arguments, which weigh with us in retaining the existing proportions of elected and nominated members. First, we hesitate to rely altogether on the qualifications, which will be prescribed for candidates, to secure an element which has proved valuable in the past and is indispensable in a senatorial body. In paragraph 8 of our Reforms Office despatch No. 3, dated the 6th May 1920, Lord Chelmsford's Government made the following observation : " The functions of such a chamber, as we conceive them, are those of a revising body, capable of exercising in relation to the popular chamber a restraining though not an overriding influence, and its composition is a corollary of its functions. The members of such a body must be persons possessing what has been called the senatorial character ; they must, that is to say, be men who will bring to bear, on problems of State, the qualities of knowledge, experience of the world, and the sobriety of judgment which comes thereby. No form of indirect election could satisfy these requirements. At its best, this method would produce a body which merely reflected the views of popular electorates ; at its worst, one which consisted of the delegates of small electoral cliques ; but in no circumstances could it yield a true senate." We do not now press these views so far as to reject indirect election altogether. They are however still a justification for retaining adequate scope to maintain by nomination the senatorial character of the chamber. Second, we consider it desirable that for some time longer the central Government should be able to count on support from the upper chamber. For that reason it is essential that the Council of State should remain a body of conservative disposition. We would, therefore, retain the power possessed by the Governor General to make nominations both of officials and of non-officials, observing that the Governor General is at present under no obligation to nominate the maximum number of officials and indeed in

practice nominates a smaller number. We would hope that this discretion to reduce the nominations of officials might, in the future, be more freely exercised than at present and it might well be that if the method of indirect election were adopted, more frequent resort to nomination of non-officials might be necessary, in order to represent interests or communities which fail to secure representation through provincial legislatures.

147. **Life-time.**—Whether the Council of State is elected directly or indirectly we agree with the view of the Statutory Commission that its life should be seven years.

DEFENCE.

Administrative problems.

148. **Connection of civil departments with the administration of defence.**—Having described the general administrative and legislative dispositions at the centre, which appear to us to accord best with present conditions, we desire to consider in greater detail how these dispositions will affect some of the more important of the departments of Government. The Commission have fully recognized the importance of the subject of defence, which indeed constitutes one of the most difficult of all the problems at the centre. In putting forward their scheme, they have been largely actuated, as they point out, by the desire to remove what might otherwise form a continuing barrier to constitutional progress. Any proposals designed to produce this result merit the most careful and sympathetic consideration. We have already discussed the proposals for the exclusion of defence in so far as they affect the structure of the central executive; and we have examined in that connection the suggestion that the removal of the control of the army from the Government of India would clear the way for constitutional advance. We will now endeavour to consider how the proposal would affect the army administration itself. We have been impressed by the accuracy and insight with which the Commission have analysed the problem, and by the ingenuity of the solution which they propound. The essence of their proposal, as we understand it, is a mutual agreement between Great Britain and India that for the time being the defence of India should be regarded as an Imperial concern carried on in co-operation with, but outside, the civil administration of the country. By a similar agreement, a fixed total sum would be made available from Indian revenues for defence expenditure, subject to revision at suitable intervals. The idea has undoubtedly many attractive features. We have however, to ask ourselves two questions, first, whether, in the endeavour to avoid a constitutional difficulty

of a special character, India may not fall into a greater danger by attempting to detach an important function of Government from its true place in the organic whole : and, second whether the control of defence can as a matter of fact be isolated in the manner proposed. It has to be remembered (and experience in all countries during the Great War has brought home this lesson very forcibly) that the administration of defence cannot be made the business of one department of Government alone. The successful conduct of war does not depend solely on the strength of the armed forces available, the manner in which they are raised and controlled, and their general state of preparedness, but upon the combined efforts of the Government and the country as a whole. A modern war may, and generally does, involve all the resources of the nation. In considering the wider aspects of the defence problem, the defence administration of the State cannot be dissociated from other branches of the administration, such as finance, maintenance of order and the quelling of civil disturbances, posts and telegraphs, railways, trade, shipping and transport, labour, health, and even education. The efficiency of the fighting services depends to a large extent on the general efficiency of the nation in these departments, and on the degree to which the national resources have been co-ordinated in peace, and can be harnessed in war. The responsibility of Government for defence is thus a joint responsibility. The Commission evidently had these facts in mind, for they have laid special emphasis on the necessity for continuing unimpaired the help and assistance which the army at present looks for and obtains from the civil administration. If we have correctly followed their line of thought, they believe that the co-operation of the civil departments in the day to day administration of defence can be secured on the same basis of mutual agreement as is necessary to the introduction of their scheme as a whole, though the means for ensuring such co-operation must in the final resort rest in the hands of the Governor General. We have to examine this assumption from the practical point of view.

149. **Position of the Army Department under the existing system.**—In the central Government as at present constituted, there is no fundamental difficulty in correlating the activities, and defining the responsibilities, of the various civil departments in regard to defence. Questions, which are the joint concern of the army and one or more civil departments, are dealt with under the ordinary inter-departmental routine of the Government of India, and decided ultimately, in the event of disagreement, by a reference to Council. It is true that the procedure is sometimes found to be cumbrous, and that the need for a co-ordinating institution, analogous to the

Committee of Imperial defence, is not infrequently felt. This is at the most, however, a remediable defect in the administrative machinery. The Government, in its present unitary form, does provide the means of solving departmental differences, and precludes the possibility of deadlock.

150. **Our apprehensions regarding the position of the Army Department under the Commission's proposals.**—We do not feel sure that this would still be the case under the arrangements proposed by the Statutory Commission. The Army Department would cease to be a constituent unit of the central Government. It could no longer rely on its position as a department of the Government of India for support when claiming the co-operation of other departments, or endeavouring to impress upon them its peculiar requirements or points of view. The burden of persuading a civil department in the last resort to take or withdraw any action in the interests of the army would rest upon the shoulders of the Governor General, whose task would be made no easier by the fact that the central Government had been deprived of its direct share of responsibility for defence. It is not, in our opinion, merely a question of the provision of facilities in regard to recruitment, transport, and other matters. The Army Department is in contact with civil departments from day to day. At present it deals with them on an equal footing : but if it became an authority separate from the central Government, some friction would almost certainly ensue. The position of an excluded Army Department would, we think, be difficult enough even if the central executive were constituted, as the Commission propose, with an official element, and were not responsible to the legislature. But if the exclusion of defence fulfilled its avowed object of removing the constitutional barrier to complete self-government and the Army Department, administered by an Imperial agency, found itself in daily contact with a central Government responsible to the legislature in all respects, we apprehend that the possibilities of friction would be greatly increased.

151. **Arguments on the other side.**—It is, of course, possible that we have over-estimated these disadvantages. It may be contended that so far as the provinces are concerned, should effect be given to the constitutional proposals of the Commission, the co-operation which is needed for the successful administration of defence must depend in the first instance on goodwill and mutual understanding (the ultimate power resting in the hands of the Governor General), whether the army remains an integral part of the Government of India or not. In regard to the centre, it might further be argued that as a matter of fact conflicts between the army and the civil departments are not frequent, and that it

is hardly reasonable to assume that antagonism and opposition will become the rule, and co-operation the exception, merely because the army has been placed, for administrative purposes, under the Governor General. Though under the Commission's proposals the army administration would be outside the Government of India, the responsibility of the latter to co-operate in the defence of the country would remain unimpaired, and the powers of the Governor General would be in reserve to enforce that responsibility. It might also be questioned whether an army administration, excluded by mutual agreement from the Government of India, would be faced with any greater difficulties in securing co-operation and co-ordination of effort than an army administration forming part of a Government of India, which was in other matters responsive to the legislature. We do not ourselves hold these views, but we think it desirable, in connection with so important a proposal, to state the arguments on either side.

152. **In the legislature.**—The removal of the Commander-in-Chief and the Army Department from the Government of India might lead to complications in the legislature. The Commission observe that the Army Secretary would be available in the Legislative Assembly. He would however cease to be an official of the central Government, and, as that Government would be divested of its share in the responsibility for defence, he would act, not as its spokesman, but as the mouthpiece of an Imperial agency. His position in the Assembly as the official exponent of policies for which the Government of India were not responsible, would be in our view anomalous and embarrassing. There is already a tendency to criticize the existing arrangement under which the Army Department is represented in the Assembly by a Secretary, and not by a member of the Government. We think that there might be greater cause for dissatisfaction if the spokesman on military matters were not even an official of the Government of India. The Commission indeed propose* that the Leader of the Federal Assembly should take charge of important debates on military subjects : but although the Leader of the Federal Assembly might personally carry great weight, his rôle, in army debates, would be merely that of an advocate briefed for the occasion.

Here again we do not overlook the arguments on the other side. If defence were excluded from the Government of India by general agreement, the Assembly might tend to concern itself less with the details of army administration, especially if it were represented in a standing defence com-

*Volume II, para. 170.

mittee, and had opportunities for the discussion of army policy, as the Commission suggest.

153. **Effect upon the Indian soldier.**—Our arguments so far have dealt with the administrative objections that might be urged against the Commission's proposals. There is another important aspect of the matter. The Commission have stated* in their report the main argument on which their proposal is based. It is the principle that the protection of the frontiers of India, at any rate for a long time to come, should not be regarded as a function of an Indian government in relation with an Indian legislature, but as a matter of supreme concern to the whole Empire, which can only be effectively organized and controlled by an Imperial agency. We do not here wish to enter into the question of the degree to which the defence of India may be regarded as an Imperial rather than a purely Indian concern. We do consider it relevant, however, to note that the greater part of the rank and file of the army in this country consists of British Indian subjects. The Commission's proposals might be thought to have the effect of removing Indian officers and men from the service of the Government of India, and of turning them into employees of an Imperial agency, whose policy might be dictated to a large extent by the War Office. It is possible that the effect of this change in the status of the Indian soldier would not immediately be felt. Under the Commission's proposals, the army would still be directly subordinate to the Commander-in-Chief, and would still be under the supervision of the Governor General. The dissociation of the army from the Government as a whole might, however, in time produce reactions unfavourable to the Indian soldier during his army career, and might also tend to deprive him of the protection and sympathy of the civil administration in his retirement.

The advocates of exclusion may reply that here also the goodwill and co-operation of the provincial Governments must be assumed, and that, if these are not readily forthcoming, the Government of India would at any rate be in no better a position than a separate Army Department to secure the interests of individual soldiers and pensioners. We do not ourselves hold this view. We believe that, in this as in other matters, the representations of the Government of India are likely to carry more weight with local Governments, no matter how autonomous, than those of a detached authority.

154. **Conclusion : the army should preferably remain under the Government of India.**—Our conclusion, after weighing the arguments on both sides, is that it would be

*Volume II, para. 208.

preferable that the Government of India should retain its control of the administration of defence. The Commission themselves, however, recommend the adoption of their scheme only on the understanding that it meets with acceptance. If Indian opinion were decidedly in its favour, we should be prepared to reconsider our views. The proposal hitherto does not appear to have enlisted any public support.

155. **The portfolio of defence.**—If this view is accepted, the portfolio of defence would continue to be held by a member of the central Government. This brings us to the question of the position of the Commander-in-Chief. We consider that there is great force in the Commission's recommendation that the Commander-in-Chief should cease to be a member of the central Government, occupying a seat in the Indian legislature. The present official position of the Commander-in-Chief, combining as it does the function of the supreme Commander of the forces in India with that of permanent Army Member and Government spokesman on army affairs, is becoming increasingly difficult and embarrassing. The problem had arisen before the appointment of the Statutory Commission, and we had already for some time been considering the possibility of some such solution as the Commission propose. We agree that the Commander-in-Chief should cease to be a member of the Indian legislature : and we recommend that his place in that respect should be taken by a civilian member for defence, who would become the responsible member of Government and Government spokesman in the legislature in all matters of defence policy. This, in our opinion, would constitute the simplest method of relieving the Commander-in-Chief of duties which are extraneous to the nature of his profession and appointment. The change would involve no dislocation of the existing machinery and the actual conduct of business between the Army Department and Army Headquarters would proceed on the existing lines. The Commander-in-Chief should, however, retain the right of direct access to the Governor General, and should, as a matter of rule, be present in Council when military affairs are discussed. The mutual relations of the Commander-in-Chief and a civilian defence member would not present the difficulties that were found to arise when the Commander-in-Chief and the military member, both high military officers, were both also permanent members of the Executive Council.

156. **The army estimates.**—We find ourselves in agreement with many of the Commission's observations on the subject of military expenditure. It will be for His Majesty's Government to consider whether the Commission's argu-

ments in favour of a subsidy from Imperial revenues should be accepted, and whether the Government of India can establish a claim to a fixed contribution determined by the factors to which the Commission have referred. We are in favour of the proposal for the constitution of a committee on army affairs, including members of the central legislature, for the purpose of discussing and keeping in touch with military questions, as recommended* by the Commission. We are also in favour of the Commission's suggestion that military expenditure from Indian revenues should henceforward take the form of an annual total sum fixed for a period of years, and revised at intervals. The general position of the legislature in regard to defence matters should, however, remain unchanged : in particular, the existing facilities for the annual discussion of military policy and expenditure, in the course of the budget debates in the Assembly, should continue.

Indianization.

157. **The Commission's survey of the problem.**—In chapter 10 of the first volume of the report, the Commission have presented a comprehensive picture of the military problem, notable for its impartial, yet sympathetic, treatment of a most difficult subject. That the Commission recognize the supreme importance of this question is made clear in the first sentence of the chapter, where they observe that in considering the implications of the policy, to the pursuit of which the British Parliament is solemnly pledged, for the increasing association of Indians in every branch of Indian administration, and for the development of responsible government in British India, no question is at once more difficult and more crucial than the future organization, recruitment, and control of the army in India.† We think it worth while to quote in full one passage ;‡

> " For the purposes of the constitutional inquiry upon which we are engaged, the method by which Indianization might proceed is not so immediately important as the fact that it has at length begun, and that it is recognized that the pace at which it proceeds is conditioned by the efficiency of the results obtained. A completely self-governing India must be in a position to provide itself with armed forces, fit to undertake the tasks which armed forces in India have to discharge, so far as those tasks

*Volume II, para. 210.
†Volume I, para. 111.
‡Volume I, para. 125.

> are the special concern of India itself. It is not to be supposed that units recruited in Britain and officered by British officers are going to be mercenaries in some future India where the ultimate military authority rests with an Indian Minister for War or with an Indian Cabinet, responsible to an Indian elected Assembly. Indian nationalists are, therefore, perfectly right in attaching great importance to army questions in India in relation to India's constitutional development. It is essential to the honour of Britain, in relation to the assurances which have been given that we are sincerely aiming at the attainment of self-government in India, that the transformation should be given every fair chance. The change is bound to be slow, and it is much more likely to come about smoothly and successfully, if the difficulties are honestly faced on both sides in a spirit of complete goodwill."

These words sum up clearly and succinctly the whole problem of Indianization. It is of paramount importance that we should satisfy Indian public opinion that we are in earnest in our policy, and that our measures of Indianization are directed towards a definite goal. It is equally important that our critics, on the other hand, should recognize that the maintenance of efficiency is an indispensable condition of progress, and that this plea is not raised for the purpose of obstructing legitimate demands.

158. **The Commission's recommendations.**—The Commission have put forward a tentative proposal* for the development of a separate army of a dominion pattern, recruited for purposes of internal order, but sharing with Imperial troops the burden of external defence. This army, if and when created, would be under the control of an Indian minister. The suggestion is repeated in paragraph 211 of the second volume, where it is further made clear that the dominion army would be independently paid for and controlled, and contain no British element. The Commission recognize, however, that the suggestion raises many difficulties, technical and financial, and that the time for so considerable a departure from the established organization has not yet come. We shall return to this subject later. For the present the Commission urge that we should go forward steadily, as we are pledged to do, with the Indianization of the army, subject only to the overriding requirements

*Volume I, para. 126

of military efficiency : and they consider that this obligation should continue to be honoured in the letter and the spirit if the army in India were to pass, as they suggest,* out of the control of the Government of India. We need hardly say that we accept this view of our obligations. Our present policy of Indianization is indeed based upon it. We believe that the pursuit of that policy, in the language of the foreword published with your predecessor's approval to the report of the Indian Sandhurst Committeee, " offers the sure stable line of advance towards the creation of a dominion army ". By " the creation of a dominion army " we mean the evolution of a self-contained Indian force, to be commanded and officered eventually by Indians and to be under the control of a self-governing India. We propose to describe briefly the progress that has already been made in Indianization, since the announcement of decisions on the report of the Indian Sandhurst Committee, to state the position now reached, and to indicate what the next steps in advance are likely to be.

159. **Progress of Indianization since 1928.**—In March 1928, we announced that in future the number of vacancies available for Indians at the Royal Military College, Sandhurst, would be increased from ten to twenty a year, and that some vacancies would be thrown open to Indians at the Royal Military Academy at Woolwich, and the Royal Air Force College at Cranwell. The first examination under the new conditions was held in November 1928, but it was not until the November examination of 1929 that, for the first time, the number of Indian candidates qualified for Sandhurst exceeded the number of vacancies offered. At that examination, eighteen candidates passed the examination, against ten vacancies. At the same examination, six Air Force candidates, *i.e.*, the minimum number required to initiate an Indian Flight, succeeded in qualifying for Cranwell, and two Indians also passed into Woolwich. Up to that point, no Indian had passed for either Woolwich or Cranwell. We have recently received final results of the examination held in June 1930. Two candidates succeeded in qualifying for Woolwich, and ten for Sandhurst. The number of those qualified for Sandhurst was therefore, on this occasion, exactly equal to the number of vacancies offered. For future calculations, it may be assumed that the number of candidates qualifying for Sandhurst will not fall below the present number of vacancies, namely twenty a year. To these should be added a number of Viceroy's commissioned officers nominated to Sandhurst as Viceroy's commissioned officer cadets. The prescribed annual maximum for such nominations is five, but for the

*Volume II, para. 211.

present not more than two or three suitable candidates are likely to be forthcoming from this source every year. In addition, we may expect an average of three or four candidates a year qualifying for either Woolwich or Cranwell.

160. **Number of Indianizing units required.**—An annual output of twenty officers with direct commissions from Sandhurst, together with an annual average of two or three Viceroy's commissioned officers granted King's commissions, will, in the course of time, supply an officer establishment sufficient for a complete infantry division of twelve battalions, a pioneer battalion, and a brigade of three regiments of cavalry, together with an adequate margin for ancillary departments, staff and command appointments, and for wastage in premature retirements and transfers to civil departments. The calculation assumes the conversion of the officer establishment of Indian units from the existing pattern, which consists of twelve to fourteen King's commissioned officers and nineteen or twenty Viceroy's commissioned officers, to a homogeneous cadre of twenty-three to twenty-five King's commissioned officers. Our scheme therefore at its present stage, envisages the Indianization in all of sixteen units of cavalry, infantry and pioneers, in addition to such units of artillery, signals and engineers as may hereafter be officered by Indians from Woolwich, and to the air squadron which we hope to raise gradually with Indian officers trained at Cranwell. The eight units hitherto set apart for Indianization are still officered on the pattern mentioned above. But these officer establishments will in the course of time be insufficient to accommodate the increasing number of Indians commissioned through Sandhurst. It will then be necessary either to set apart more units for Indianization or to begin the conversion of the officer establishment to the British pattern, or to introduce a combination of both these measures. We have not yet decided which procedure we shall adopt. An important factor in the decision must naturally be the necessity of securing the rights and prospects of the Viceroy's commissioned officers, and of the sepoys and sowars who enter the army with the ambition of being promoted to Viceroy's commissioned rank.

161. **Question of an Indian military college.**—The increasing numbers of successful Indian candidates at these examinations bring us nearer to the point when the question of the establishment of a military college in India must be decided. The Indian Sandhurst Committee, in paragraph 44 of their report, stated that according to the expert evidence they had received, the desirable number of candidates for the starting of an Indian military college, if it were to have an efficient organization, was 100. They

accepted that as the initial number, and proposed that the college should be inaugurated in 1933, with an intake of 33 cadets in that year. The establishment of 100 was to be reached in 1935, when the first batch of entrants would be commencing the third and last year of their course. The Committee, in their recommendations, followed the models provided by the Dominion military colleges at Kingston and Duntroon, where the normal course of training is three or four years : and we agree that the Indian military college when established should be on the lines of those colleges rather than of Sandhurst, where the course lasts for eighteen months only. We also agree with the Indian Sandhurst Committee that 100 is a desirable number, though not an indispensable minimum, for the foundation of an Indian military college. To absorb an annual output of 33 officers, if that were the figure accepted, it would be necessary in course of time to expand the number of units selected for Indianization from sixteen, the number required for the present output, up to about 25. The rate of progress of Indianization in artillery, engineers, signals, and air-units, is at present too uncertain to be included in this estimate.

162. **Arguments that might be urged in favour of Sandhurst from the military point of view.**—The alternative to the creation of an Indian military college would be a further increase in the number of vacancies available for Indian cadets at the Royal Military College, Sandhurst. His Excellency the Commander-in-Chief points out that there is much to be said for the retention of Sandhurst as the training ground of Indian King's commissioned officers as long as possible, provided that the progress of Indianization is not thereby retarded. The traditions which have been established over long years at Sandhurst, and the fact that the Indian cadets there mix freely in work and games with boys from English public schools, have undoubtedly a beneficial effect. It can be shown that many young Indian cadets, after a Sandhurst education, are holding their own with their British contemporaries : and those who advocate the retention of Sandhurst feel no doubt that the same results would not be obtained from a college established in India, which for many years to come would have no such traditions as Sandhurst and no corresponding *esprit de corps*. While sympathizing with the wide-spread desire among Indian public men to see a military college established in India, those who hold this view are definitely of opinion that the present high standard of education, combined with the surroundings and traditions of Sandhurst, resulting in the formation of character, will not be maintained in an Indian college, and that the quality of young Indian officers entering the army will consequently deteriorate.

163. **Arguments that might be urged in favour of Sandhurst from the political point of view.**—Indian political opinion has hitherto expressed itself clearly in favour of the creation of an Indian military college in accordance with the recommendation of the Indian Sandhurst Committee. The considerations stated in the preceding paragraph might however be acknowledged by some of those who press for an Indian military college, if they could be assured of a guarantee that the retention of Sandhurst would in no way prejudice the rapidity of Indianization. Indian sentiment, both within and outside the army, attaches considerable value to the hall-mark of Sandhurst. One of our Indian colleagues has expressed the view that it would be better that India should continue for some time yet without a military college of her own, than that Indian officers should come to be regarded as possessing qualifications inferior to those of their British contemporaries in the Indian Army. He fears that this argument of inferiority might be used to retard the pace of Indianization in future, and he observes that if it is found necessary for young Indians appointed, for instance, to the Indian Civil Service or the Forest Service, after open competition in India, to be sent to Europe for further training, a period of training in England would seem equally necessary for young Indian officers of the army. It would be possible to point, in illustration of this argument, to the proposal of the Indian Sandhurst Committee that Indian cadets, after completing their course at the Indian military college, should be attached for one year to British battalions stationed in the United Kingdom. To cite another instance, although the teaching in Indian Universities has reached a high standard, there is still in India a great demand for admission to British universities. Even if the Indian military college, therefore, produced from the outset officers as good as those trained at Sandhurst, the fact might not be recognized for some time by the Indian or the British public. He further urges that inasmuch as any expansion of Indianization will involve a decrease in the number of British officers of the Indian Army, there should be less difficulty in accommodating the increasing numbers of Indian cadets at Sandhurst. If therefore His Majesty's Government could arrange to secure the admission of Indian cadets to Sandhurst to the extent which the progress of Indianization required, there would be grounds for postponing the establishment of an Indian military college for a considerable time to come. An Indian military college is moreover bound to be expensive, both in its capital cost and in its recurring charges, if it is to be founded and maintained on lines comparable to Sandhurst. He anticipates that, from the political and financial, as well as the military, points of view, the alternative of retaining Sandhurst may find some support.

164. **Arguments for an Indian military college.**—On the other hand it may be argued that a course of three, or possibly four, years in an Indian military college, beginning in the seventeenth or eighteenth year of age, when boys are still comparatively impressionable, could be made at least as effective as the training imparted during eighteen months at Sandhurst to Indian cadets, who rarely go there, under the present system, until after they are nineteen. The advantages resulting from association with British contemporaries might perhaps be secured, when the time comes, in another way, namely, by extending, for Indian officers, the period of attachment to a British unit, before they are posted to the Indian army, from one year, as at present, to, say, two years. Further, it may be thought that the qualities of initiative and comradeship, the combination of which is essential to the making of a good officer, are acquired rather during the time spent at an institution such as Dehra Dun, or at an English public school, than during the later, and shorter, stage of a course at Sandhurst. By taking its cadets at a more formative age, and by training them longer, an Indian military college could supply to some extent the advantages of a public school education for those who had not already had it: and there is no reason to suppose that the military authorities in charge of the direction of the college could not, by choice of staff and in other ways, ensure the provision of a first class training. The Indian Sandhurst Committee were obviously guided by considerations such as these in making their recommendation for an Indian military college—a recommendation that has received much support from Indian public opinion. We cannot ignore the strength of the demand for such a college. In spite of the financial assistance granted by Government to Indian cadets, we cannot doubt that the expense, the distance from India, and the unfamiliarity of the surroundings, are factors which deter a number of parents at present from offering their sons for a military career. There is a general impression that in spite of everything that Government can do, the cost of education at Sandhurst remains excessive, and that Indian cadets are handicapped in various other ways. This feeling is but natural. To appreciate its force it is only necessary to imagine what would be the attitude of British parents who desired to send their sons into the army, if there were no military college in Great Britain, and every English cadet had to be trained at an institution in a distant country. It would not be long before public opinion, in such circumstances, demanded the establishment of a military college in England. An Indian military college will in any case become inevitable as soon as Sandhurst can no longer accommodate the increasing numbers of Indian cadets. We do not

know when that point would be reached: it would depend, among other things, upon the attitude adopted towards this question by the Army Council. But, even if the military authorities in England were willing to accept Indian cadets at Sandhurst in sufficient numbers to avoid the immediate necessity of founding an Indian military college, the question would still remain whether it would be better to continue sending Indian cadets to Sandhurst as soon as possible, or to start the Indian college without delay.

Some of our number would prefer, for the reasons given in paragraphs 162 and 163 above, to make every effort for the retention of the advantages of Sandhurst as long as possible, provided that the military authorities in England were prepared to accept Indian cadets in the increasing proportions that the progress of Indianization will require; others of us take the view that the establishment of an Indian military college should be set on foot as soon as practicable. In these circumstances we have stated to the best of our ability the arguments in favour of either course, and His Majesty's Government will have the opportunity at the Conference to ascertain Indian feeling on the matter.

165. **The Commission's scheme for a separate "dominion" army.**—If the number of King's commissions offered annually to Indians is increased in the near future, it will be necessary to decide in what way the additional officers should be employed. We have considered very carefully the proposal made by the Indian Statutory Commission in paragraph 211 of the second volume of their report. Reading that paragraph with paragraph 126 of the first volume, we understand the proposal to be that Government, in co-operation with the central legislature, should encourage the recruitment of battalions of a dominion pattern, commanded by officers holding a dominion commission, for purposes of internal security, that these forces should be controlled by an Indian minister of the central Government, and that out of them a dominion army should gradually emerge as a self-contained indigenous force, distinct from the Imperial army, in which latter army, however, the policy of Indianization should also be pursued. The Commission have left us in some doubt as to the functions of this new force, which they contemplate* as being "recruited for purposes of internal order", but also "sharing with Imperial troops the burden of external defence". Nor have they defined the source from which it is to be financed, though recognizing that financial considerations will of necessity impose strict limits on its size.

*Volume I, para. 126.

166. **Tentative character of the scheme.**—This suggestion of the Commission is, however, only tentative. As we have already stated, they do not themselves consider that the time has yet arrived to decide upon it, and whether it should be adopted or not. Its adoption would in any case depend upon a definite pronouncement in its favour by Indian public opinion. We shall proceed to examine it in the paragraphs that follow. At the same time, we wish to make it clear that our views, like those of the Commission, are merely provisional, and that we do not commit ourselves at this stage to a final expression of opinion.

167. **Possible objections to the scheme.**—Whether, as we should prefer, the Government of India continue to control the regular army, or whether the Statutory Commission's recommendation be adopted, and the control of the army be transferred to the Governor General, acting as an agent of the Imperial Government, this further recommendation of the Statutory Commission would involve the existence of two distinct forces side by side, controlled, organized, equipped, financed and employed on different systems, but both of them none the less forming part of the army in India, and containing the germ of the future dominion army. We confess that we do not at present see what justification or incentive could be found for the creation of the proposed new force. Apart from the financial difficulties to which we have alluded in paragraph 165, it is obvious that newly raised troops of this character would not for many years be as efficient as units of the regular army. Indian public opinion, so far as we know, is content that the whole army should remain under the control of the Government of India and the Commander-in-Chief. Its main demands are first, a large reduction in military expenditure, and, second, an increase of Indianization within the existing army. The fact that the Government of India and the Assembly were free to develop an army which might be regarded as of inferior status and of less effective fighting capacity alongside the regular army, with such funds as might be available, would not evoke any degree of popular enthusiasm : nor would it be easy to convince any one that this measure constituted an advance towards the formation of a dominion army. It must further be remembered that, in time of peace, internal security troops, as such, do not exist. All units of the army are recruited, trained, and equipped up to the full standard of efficiency required for service in the field. On the outbreak of war, units which are at the moment stationed in certain places become, on mobilization, part of the field army, and proceed to the front. Those in certain other stations are detailed

for internal security purposes ; but, being fully trained, also form a valuable reserve to the troops in the field. In ordinary times however every unit is fully trained for war, and is also available for duty in aid of the civil power on the outbreak of local disorders, whatever its duties may be in the event of mobilization. Battalions trained for internal security purposes alone would not have sufficient occupation to justify their maintenance as regular forces.

168. **Another suggestion—Provincial battalions.**—We have considered also an alternative suggestion that a certain number of units, over and above those set apart under the existing scheme for Indianization within the army, should be handed over to provincial Governments to be maintained by them as provincial battalions. These battalions would normally be employed by the provincial Governments on duties connected with law and order, for the preservation of which they are, under the Commission's proposals, to become primarily responsible. They might also develop, in the course of time, into units capable of taking their place in the field army. They would in fact be raised and maintained by provincial Governments in precisely the same way as Imperial State forces are raised and maintained by the rulers of the larger Indian States. They would be inspected and supervised by a central agency similar to, and possibly amalgamated with, the Military Adviser-in-Chief and his assistants. For every provincial battalion so constituted, a corresponding unit of the regular army would be brought under reduction : and the provincial Government would receive, out of the resultant saving to army estimates, such financial contribution as was required to maintain the new unit on an adequate footing. Provincial battalions, like the Indianizing units in the regular army, would be officered by Indians commissioned through an Indian military college. It is claimed for the scheme that, by encouraging the development of localized forces, it would help to broaden the basis of recruitment, and perhaps foster willingness to undertake military service among communities who show no enthusiasm for it at present. Meanwhile, the Imperial army would not run the risk of including more experimental, and to that extent, ineffective units than it could carry. At the same time, there would be no restriction of the field of employment for young Indian commissioned officers, many of whom might prefer service in provincial units of this character to service in the Imperial army. The suggestion, therefore, has something in its favour from the purely military point of view. It is, however, open to some of the same objections as the proposal of the Indian Statutory Commission : nor have we any reason to suppose that provincial Governments or provincial sentiment would welcome it. There is no evidence

at present of a movement in any part of India for the establishment of provincial military forces.

169. **Reasons for preferring the continuance of a single army.**—Apart from these considerations, the creation of any new type of armed forces would form, in our opinion, an unnecessary complication. We already have regular troops with British officers, and regular troops in process of Indianization. We have also the territorial forces, and the various battalions of military police maintained by provincial Governments. We doubt if there is room for provincialized forces in addition to all these. We would greatly prefer that all units hereafter selected for Indianization should retain the status and functions of regular fighting troops : and we have little doubt that Indian sentiment would support us in this view. We think that the advantages of a provincial or local connexion could be equally well attained by assigning certain stations as permanent headquarters to some of the Indianizing units of the regular army. Some such arrangement would indeed be desirable for several reasons. The increase of the number of King's commissioned officers in replacement of Viceroy's commissioned officers, for instance, will necessitate the provision of accommodation for officers on a different scale from that provided for ordinary units : and for this reason it will probably become difficult, if not impossible, in future, for ordinary units to succeed Indianizing units on relief, and *vice versa*. We have reason to believe that provincial Governments, if asked or required to maintain armed forces for internal security duties, would prefer that those forces should take the existing form of military police. We accordingly consider that any advance in the Indianization of officer ranks must be made within the army itself, and that units selected for this purpose hereafter must continue to be trained and employed in exactly the same way as those which retain their British officer establishments.

170. **Conclusion.**—But whatever may be the outcome of the Commission's suggestion for the eventual creation of a separate army, we have sufficiently indicated, in the foregoing paragraphs, our whole-hearted concurrence in the policy which they advocate for the meanwhile. Our aim is to proceed with measures for preparing India to undertake a larger share of responsibility for her own defence as rapidly as is practicable : and we shall be ready to adopt whatever means may be found most suitable and effective, for the achievement of that end.

FINANCE.

171. **Considerations which affect the early transfer of responsibility for finance.**—We have referred in a previous

paragraph of this despatch to the special difficulties in the way of any immediate transfer of responsibility for finance, owing partly to the magnitude of the interests which have hitherto been safeguarded under the responsibility of the Secretary of State, and partly to the necessity for the prior fulfilment of certain special conditions. We desire to examine in more detail the special circumstances which surround this highly technical but vital part of the administration. We shall then offer some suggestions as regards the direction in which, and the qualifications subject to which, advance in financial responsibility may be made.

172. **The four principal factors in the situation.**—It will facilitate an appreciation of the practical measures which are required if the principal factors in the situation are analysed and considered separately, though they necessarily to some extent overlap. These factors may be stated as follows :—

(*a*) The great financial significance of the purposes in regard to which Parliament cannot divest itself of all responsibility.

(*b*) The foundations of India's credit and its significance to the country.

(*c*) The unusual responsibilities which the Government now carries in relation to the currency.

(*d*) The particular financial and economic conditions which exist to-day.

173. **The financial significance of the responsibilities of Parliament.**—The special responsibilities of Parliament in the financial sphere may be classified under three main heads. First, if Parliament remains, as it must, responsible for defence, it must be able to ensure that the funds to meet the cost of defence are available. Second, Parliament having been hitherto responsible for the general good government of India could not relinquish this responsibility without ensuring that the debts incurred during its period of responsibility are honoured. In this connection we may recall the assurance given by the Secretary of State to the holders of Indian loans in England in Sir Arthur Hirtzel's published letter of January 27, 1930. Third, Parliament must remain responsible for the pay and pensions, family pensions and provident funds of all officials recruited by the Secretary of State. It may be argued that it would be a sufficient discharge of the responsibility of Parliament, if it were provided as part of the new constitution, that the sums required to make the payments due under the above three main headings should be a statutory first charge on a consolidated fund, payable independent of any vote by the Indian legislature.

But (*a*), a first charge on revenue is of no value unless the necessary taxes are levied to produce sufficient revenue, and

(*b*) in this case the total of the charges including only cost of the army, interest on loans and pensions amounts to about 80 per cent. of the net revenue of the central Government. When a "first charge" absorbs all but a narrow margin of the total revenue, the security implied by the nomenclature disappears. In such a case, the authority responsible for seeing that these payments are made has an intimate concern in the whole financial administration of the country.

We do not go so far as to suggest that this circumstance must constitute a permanent obstacle to any transfer of financial responsibility. But Parliament may not unreasonably demand some signal guarantee for the future, before surrendering the security provided by its direct constitutional power to control proposals for taxation and expenditure through a minister responsible to itself.

174. **Credit of India.**—The maintenance of India's credit is a factor of overriding importance, and having regard to the special circumstances in which India has been governed in the past, the outstanding consideration is that, in the absence of special safeguards and preparation, the removal of the authority and responsibility of the Secretary of State would represent a fundamental change, which might be expected to give a very severe shock to India's credit. However unfair we may feel to be any implied distrust of what is to be expected in the way of financial policy from a responsible Indian Government, it is none the less real, and we have to face realities. We cannot ignore the fact that the foundations on which the financial stability of India depend are of a very special nature ; first, owing to the extent to which up to this point India has relied on external resources for the building up of her existing economic structure ; second, because of the great part which reliance on the credit of the Secretary of State and the responsibility of Parliament plays in the maintenance of that structure. The peculiar features in India's position have arisen mainly from the historical connection between the United Kingdom and India both in civil administration and in defence, and in the supply of capital raised in the United Kingdom for the construction of railways, and canals, and other public works. India has in consequence built up very large sterling

commitments in the form of loans, pensions, and similar obligations.

Moreover, India's credit for the purpose with which we are concerned means something more than the credit of the Government of India as a borrower. Vast amounts of private capital have been invested in the development of the country and its industries, and it can hardly be disputed that a large part of this investment has been made in reliance on the prevailing system of administration, especially financial administration, of the country. A sudden and fundamental change, creating uncertainty and doubt as to future policy, would inevitably result in a withdrawal of a large part of the capital already invested, and stop the free supply of further capital which the proper development of the country urgently needs. Even the fear of such a change would be sufficient to produce these results, as the experience of recent months has shown. It must also be realized that the withdrawal of existing capital and the restriction of fresh supplies would not merely concern British capital. There are many Indian investors who might seek to invest their capital abroad if they lost confidence in Indian administration, and of this danger also there has been evidence during the last few months. The effect on movements of capital to which we have referred might well be felt on a scale which would mean financial and economic disaster.

Whatever may be thought from the Indian point of view about the desirability of this state of affairs, in which India relies so much on external credit and external services, it is a vital element in the problem, which must be faced with all its consequences, the chief of which is that the means of livelihood and the welfare of a vast portion of the Indian people depend at present on these foundations. If the foundations were withdrawn without an adequate and careful period of replacement, the whole Indian economic life as it exists to-day might collapse.

We do not suggest that the factors just mentioned would not be fully appreciated by a popular Finance Minister in India, and indeed we think that their very existence should afford the strongest reasons for his pursuit of a sound financial policy. But change is always unsettling, and our purpose rather is to emphasize the need for establishing confidence before such a change is made.

175. **The Government of India's responsibilities in relation to currency.**—The third factor to be considered is the unusual responsibility which the Government now carries in relation to currency. It is, of course, a well known feature of

the situation in India that the responsibility for supporting exchange, and therefore assuring that adequate remittance can be made to meet all foreign exchange requirements, public and private, has in practice been undertaken by the Government and has recently been made a statutory obligation. It has long been felt that this is, on grounds of principle, undesirable and that the right course must be for India to follow the practice of other countries, by providing that the control of both currency and credit should be united in the hands of a central bank acting independently of Government. The underlying idea in all countries is that the currency authority should be free to conduct its policy in accordance with the dictates of sound finance detached from all political influence. The official character of the Government in India has hitherto been a distinguishing factor, and it is obvious that the reasons for introducing the practice of other countries into India would be enormously reinforced, if the finance portfolio were to pass into the hand of a minister relying for his position on the support of a political party. We wish therefore to state in unambiguous terms that the formation of a reserve bank on sound lines must in our view be a condition precedent to any transfer of financial responsibility from the agents of Parliament to a minister answerable to the Indian legislature.

It must, however, be admitted that the present is an exceptionally unfavourable time for an attempt to establish a reserve bank. During the present period of falling prices the currency authority of a country like India, which relies mainly on agricultural exports, must be forced, in order to fulfil its duty for maintenance of exchange (whatever the statutory ratio may be), to follow a course involving the removal of redundant currency from the market. The bank would have to rely on the use of its sterling resources or on sterling borrowing, in which respect its position would be far weaker than that which the Government has held hitherto with the credit of the Secretary of State behind it. But more important still, as has already been pointed out, any sudden change in the administration, or fears as to the future constitutional position, may start a tendency for capital to leave India, and so long as this is going on the balance of remittance may be insufficient, with a consequent increase in the strain on the bank's reserves or on its capacity to borrow. Lastly, a special difficulty is created by the fact that in any case a special strengthening of reserves is necessary, for the present gold and sterling reserves held for currency purposes by the Government cannot be regarded as sufficient for the secure working of the reserve bank even in normal times. As

indicated in the report of the last Currency Commission, these reserves will require to be built up gradually, and it is difficult to see how, in all the circumstances, this can be done without further external borrowing on a large scale.

The combination of circumstances, to which we have referred, means that the inauguration of a reserve bank to relieve the Government of its functions in regard to currency and exchange is a matter, which demands careful preparation and a combined effort by the Government and the people of the country. It cannot be regarded as a condition easy of fulfilment or lightly left to an uncertain future. At the same time, we must make it absolutely clear that it ought to be definitely a part of our programme, and that it should be undertaken at the earliest possible moment.

We wish here to emphasize one further consideration, *viz.*, that it will be necessary that the constitution of the bank should contain safeguards for its future control against the danger of political interference. We should hope that it would be possible to convince Indian opinion of the desirability that such a bank should work in close co-operation with, and on lines approved by, the Bank of England. This idea could be supported by the general consideration of the importance of co-operation between the central banks of the world, and especially within the Empire ; while the action just now being taken by the Bank of England in giving counsel in a period of great difficulty to Australia may help to convince Indian opinion of its value. Whatever the future for India may be, she must always be greatly dependent upon her standing in the London money market, and nothing could be of greater service in this direction than a close co-operation between a central bank for India and the Bank of England.

176. **Special difficulties inherent in the present financial and economic position.**—Finally, we come to the present special difficulties inherent in India's financial position and in world economic conditions. These are so well known as to require no detailed explanation. The difficulties fall mainly under three headings. First, the general economic difficulties from which all countries which rely mainly on agricultural exports are suffering at the present time. Second, the serious after-effects on public and private finance which may be expected to result from the present political disturbance and the programme of those who have organized the civil disobedience campaign, effects which, even if that campaign were immediately terminated, must be felt in the country for a long time to come. Third, the obligation for redemption of existing loans of the Government of India which will be particularly heavy over the next three years,

and the need for further resources in gold or external capital, not only to continue the development of India's railway system, but for establishing a central bank with adequate reserves. It would indeed hardly be possible to imagine a combination of circumstances more unfavourable to an immediate change of policy, which might result in shaking public confidence in the credit of India.

177. **Importance of central Government finance in the new constitutional scheme.**—There is one further consideration which should be mentioned at this point, namely, the vital importance of maintaining the financial stability of the central Government in India in relation to the constitutional scheme which we are now considering. The proposals of the Statutory Commission would give a wide extension of responsibility and independence to the provincial Governments. Nevertheless, the provinces cannot be regarded as separate economic units, and they must remain to a large extent dependent on the central Government's financial administration and the maintenance of its credit. At the same time, the administration of finance in the provinces may on its side react to an important degree on the general financial position of India, and the centre must be strong enough to protect the situation. Central Government finance indeed may be said to represent a key point in the proposed constitutional structure which may be exposed to heavy and uncertain strains. India can hardly afford to run risks at this point during the early years of the new régime in the provinces.

178. **Conclusion that transfer of responsibility requires fulfilment of certain conditions.**—From this review of the main factors in the present position we are forced to the conclusion that the occasion for a transfer of financial responsibility cannot be reached apart from the fulfilment of certain conditions, such as the restoration of normal economic conditions, the re-establishment of credit and confidence, and the inauguration and successful working for some time of a reserve bank with adequate sterling reserves. Some of these conditions, such as the last, are clear, and their fulfilment is capable of precise determination. Others are essentially more general and in the last resort His Majesty's Government must be the sole judge of their realization. It is at this point that the essential difficulty arises, and it is precisely on the subject of these conditions that free discussion at the Round Table Conference is likely to be helpful. Pending such discussion we are reluctant to propound final proposals, and in the following paragraphs we do no more than attempt to indicate the general significance of what we have in view.

179. **Possible lines of development.**—The essence of what we contemplate is that we should endeavour as a first step to embark upon a period which is definitely acknowledged as a period of preparation for the transfer of responsibility. Our declared object would be to create such a state of affairs as to make a transfer possible, and to do this with no avoidable delay. It would be the task of the Government to do all in its power to expedite the fulfilment of such of the conditions referred to in the preceding paragraph as it can influence, and accordingly, in co-operation with representatives of Indian opinion, to complete the inauguration of a reserve bank on the lines which we have already sketched, and to consolidate the financial position, both as regards revenue and expenditure and the public debt. A concerted effort will be required to overcome the special difficulties referred to in paragraph 176 and to work out a financial programme for the future which will inspire confidence. We trust that our suggestions for a unitary executive, which may give greater harmony with the legislature, may go some way to help in this direction, and we would also hope that committees of the legislature might provide opportunities for co-operation between Government and the popular representatives.

Apart from these matters, it is necessary to say some thing of those other conditions less easily definable to which we have referred, the essential purpose of which would be to establish confidence in Indian administration. The main weight of this task must lie with the leaders of Indian opinion. An authoritative declaration by responsible leaders that they entirely discountenanced the doctrine of repudiation of debts would be of some value, but beyond this it would have greater practical effect, if Indians could give some signal proof that they are willing to mobilize their private resources for the sake of establishing the national financial position. We say no more on this subject now, leaving it to be further developed in discussion at the Conference. Our general outlook on these questions is that on the one hand, while fully recognizing the special difficulties inherent in a transfer of financial responsibility, we accept the position that an eventual transfer is implicit in the declared policy of an advance towards self-government in Ind , inasmuch as financial responsibility is one of the most essential parts of the responsibilities of Government. But we feel that the chances of obtaining that co-operation from Indian public opinion, requisite for the fulfilment of the conditions to which we have referred, will be largely dependent on the clarity with which such conditions can be defined, and the certainty with which the intentions of His Majesty's Government can be stated. On the other hand, we must emphasize that the chances of an advance are

dependent on action to be taken on the Indian side, for we consider it essential that Indians should realize that they also have a definite task to fulfil, and that it is for them to dispel the misunderstanding and mistrust that have been created. We do not overlook the difficulties in the way of defining precisely how this is to be achieved, but we are of the opinion that, unless His Majesty's Government state clearly what is required, and Indians are given a fair chance of making a response, with assistance given generously from the British side, we cannot expect Indian opinion to accept the difficulties of transfer as an excuse for its indefinite postponement.

There is one subsidiary matter to which we might refer before leaving this subject. If we look forward to a period when the finance portfolio may be held by a responsible minister, in distinction from the system which has prevailed hitherto of filling this post with a specially selected financial expert, one consequence may be to throw a greater burden on the permanent staff of the Finance Department. An elected minister, even if he is himself experienced in finance, will have to devote more of his time to political activities and to rely more on his permanent officials as regards departmental work, and we must emphasize the need for greater continuity, than has under the present practice prevailed, in the personnel of the highest posts of the department. The recruiting of suitable officers, and a provision for their training, will become of greater importance ; while it must be remembered that the special training ground which is now available in the currency department of the Government will no longer exist after the inauguration of a reserve bank. This may appear to be an administrative rather than a constitutional point, but we attach great importance to it.

180. **Safeguards after responsibility is transferred.**—It will be clear from the nature of the present responsibilities of Parliament, as envisaged in preceding paragraphs, that Parliament, so long as certain obligations inherent in the position created by past history remain, could not escape the ultimate responsibility in many important respects, and for this purpose it would be necessary to preserve certain safeguards, even after the primary responsibility for financial administration had been transferred to a minister responsible to the Indian legislature. The nature and extent of these must to some extent depend on the measure in which the general conditions precedent had been fulfilled. It is not necessary for our immediate purpose to examine them in detail. They would include :—

(*a*) The creation of consolidated fund charges to cover such items as interest on debt, railway annuities,

pay, pensions, family pensions, and provident fund payments for civil officers appointed by the Secretary of State, and army officers, and expenditure on defence,

(*b*) Some powers of supervision and control to be vested in the Governor General for the purpose of maintaining financial stability,

(*c*) Provision for resumption of control by the Secretary of State in the event of a threatened financial breakdown or an actual default under (*a*).

The provisions under (*b*) and (*c*) imply an adequate supply at all times of information to the representatives of His Majesty's Government.

We have stated these provisions in very general terms, for in the nature of the case it is difficult to be more precise, particularly as regards provision (*b*). Much would depend on the manner in which such a power was exercised. It would be a negation of the whole object of the constitutional arrangement which we are considering if interference was carried to the point of destroying the minister's responsibility. There might, however, be occasions of financial danger, short of an actual default, when a power to hold up rather than to veto inadvisable action might be of value and give the popular representatives a chance to reconsider the position and follow wiser counsels. It is probable that, if and when this stage was reached, the Governor General might usefully be assisted by a financial adviser. An adviser, if he had the right personality and experience, might perform an important rôle and establish relations with the finance minister which would be of assistance to the latter. Subject to the safeguards which we have indicated above, we should suppose that at this stage the finance minister would have become responsible to the legislature, and that the supervision, direction and control would have passed to the Governor General, acting on behalf of His Majesty's Government under the superintendence of the Secretary of State. We should further suppose that by that time the advisory committee of the London branch of the reserve bank would have been constituted. This committee would be available to give advice either to the finance minister or to the Governor General with his financial adviser. The future evolution of these arrangements would necessarily have to depend on practical experience. We should, on the assumption that all went well, look forward to a gradual development through decreasing use of the special powers of the Governor General.

181. **Relations with the Secretary of State.**—Concurrently with the action which we have described in paragraph 179 by way of preparation for the later transfer of financial responsibility, we recommend some modification in the relations between the Government of India and the Secretary of State. In a subsequent portion of this despatch we shall consider the general constitutional aspect of this question, and it is sufficient to say here that in our view the Secretary of State should in future exercise only a power of superintendence, direction and control, remaining the first executive authority in such matters only as might be definitely removed from the exercise of the authority of the Government of India. It is first necessary to ask whether there are any such matters in the field of finance.

(*a*) *Sterling borrowing.*—We take first the question of sterling borrowing. In the report* of the Indian Statutory Commission reference is made to a suggestion that the High Commissioner, instead of the Secretary of State in Council, should undertake the task of floating sterling loans for Governments in India, and should be assisted in its performance by a small committee of experts. The main reason given is that the control of currency in India, and the raising of loans in India rests, in practice, with the Government of India. This statement does not accurately represent the facts. The amount of loans raised in India, and the terms on which they are raised, are subject to the approval of the Secretary of State, while the Secretary of State's control in currency affairs is not by any means confined to broad questions of policy. Moreover, the Secretary of State manages such matters as the ways and means operations in London, the investments of the Home treasury balances, and the sale and purchase of silver.

When the reserve bank scheme was under discussion in 1927, it was contemplated that the bank should undertake all the remittance operations of the Government of India, and would supply the Secretary of State with sterling funds against corresponding debits in rupees in India. If the same line is followed when a reserve bank is created, practically all the control of the Secretary of State over the details of the currency and ways and means operations will automatically cease, and it might then be desirable to relieve him of the function of floating loans for the Government of India. The reserve bank manager in London might have an advisory committee to assist him, and the High

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* Volume II, para. 311.

Commissioner in consultation with the manager of the reserve bank and his advisory committee, could suitably undertake the management of the Government of India's sterling borrowings. But until the reserve bank is created we consider that, from the administrative point of view, it would only make for inconvenience and delay to transfer these functions to the High Commissioner, and there would in addition be the possibility of difference of opinion and friction between the advisers of the High Commissioner and the Secretary of State, who would still retain his powers of superintendence, direction and control.

Our view, therefore, is that the question of transferring the function of borrowing in London from the Secretary of State to the High Commissioner should in any case be postponed until a reserve bank is created. Moreover, and this is a governing consideration, the effect of such a transfer of the borrowing function on the standing of Indian loans in London would need to be carefully considered. Many technical points of substantial importance, such as the effect on the position of the Government of India sterling securities as "trustee securities", require careful examination when any change is considered, and on them we shall address you separately. For the present the function of borrowing in London, or more correctly outside India, together with the control of ways and means operations in London, and the investment of the Home treasury balances, can well remain in their present form with the Secretary of State.

The control over the gold standard reserve is another matter which may be held to fall within the same category, though here again the creation of a reserve bank and the amalgamation of the reserves would alter the situation. The recommendations made in this sub-paragraph are intended to be read in the light of the general observations made in sub-paragraph (*e*).

(*b*) *General financial administration.*—We would suggest that in all other matters the powers of the Secretary of State should be those of superintendence, direction and control. The control of the Secretary of State over finance is at present of two kinds. The general control, which has as its object the maintenance of financial stability and the observance of canons of sound finance, cannot be defined by rule, and includes general control over such matters as the budget and taxation, currency, exchange, remittances and borrowing. In this latter sphere we contemplate that the control will more and more be confined to broad questions of policy, and that interference in details of administration will be avoided. More exact definition is hardly possible, but we recommend

in a later portion of this despatch that the Secretary of State's controlling power should be specified in the same terms in which Parliament may see fit to define the purposes which it must continue to be concerned to secure in India.

(*c*) *Other matters for control.*—There are other matters in which control can be defined by rule, as at present in the central audit resolution. Here the Secretary of State will require to retain such control as is necessary to safeguard his responsibility for members of the services appointed by him, and rule 1 of the appendix to the central audit resolution will in substance have to be retained. Rules 2 and 3 which impose restrictions upon the Government of India's powers to create permanent and temporary posts have already been greatly relaxed by rule 10 of the new Classification Rules, but these restrictions might now, in our opinion, disappear. Similarly the grant of unusual pensions (rule 4) should be left to the discretion of the Government of India. Rules 5 to 7 deal with expenditure on military works and stores. We doubt whether these special restrictions by rule are necessary in addition to the general power of superintendence, direction and control. Rule 8 (*a*) and (*b*) deals with minor matters which might be left to the Government of India. Rule 8 (*c*) deals with the Governor General's amenities, staff, household and contract allowances, etc. There may be some advantage in reserving the control in these last mentioned matters for an outside authority, but apart from this possible exception and the retention of rule 1 relating to the services, all the restrictions in the central audit resolution might be removed.

(*d*) *Secretary of State's Council.*—We deal elsewhere with the constitutional position of the Secretary of State's Council and will merely add here that we regard it as important, not that there should be financial control by the Council—indeed we are recommending the abolition of the financial veto by the Council—but that the Secretary of State should have at his disposal the best financial advice available in the City. This is a subject which requires further discussion, but we need say no more for our present purpose.

(*e*) *General spirit of relations with the Secretary of State.*—We may perhaps with advantage sum up our views as to what henceforth should become the relations between the Secretary of State and the Government of India in financial matters.

We consider that, whatever the immediate constitutional changes may be, a stage has been reached now when the main direction of financial policy must definitely be regarded

as resting with the Government of India, and that the function of the Secretary of State should be regarded as that of giving counsel and support in financial matters to the Government of India rather than that of exercising detailed control. Indian opinion is very closely interested in the conduct of Indian financial affairs in London, and particularly in the sterling borrowing policy together with the methods of floating loans. Subject always to the observance of principles of sound finance, it is desirable that the financial policy should be conducted in a spirit responsive to Indian opinion, and we should go so far as to recommend this, even if on occasion some slight sacrifice may have to be incurred. No system can work successfully if Indian opinion is strongly opposed to the policy of Government, and comparatively minor matters often lead to a disproportionate amount of political hostility; while the cumulative effect of a number of minor irritants may sometimes provoke political opposition of real importance. If the Secretary of State can support India's credit in London, can make available to the Government of India the best advice from the city of London, can from his records supply an element of continuity and knowledge of past history as an aid in assessing the problems of to-day, and can, by counsel given in a detached atmosphere, supply at times a balance to views perhaps unduly influenced by local factors, then his co-operation can be of the greatest possible value to India, and the relation thus interpreted might even with advantage continue when the finance portfolio came to be actually held by a minister responsible to the Indian legislature. But the success of such a relation depends on the realization of its limitations, and any attempt to control the details of India's financial policy from London must be regarded as an anachronism.

COMMERCE.

182. **The demand for liberty to control economic policy.**—For a number of years past there has been an insistent demand from Indians of all shades of political thought that the economic policy of the country should be shaped on national lines, that in particular industrial development should be actively pursued, and that the control should be placed in Indian hands. Even under the present constitution an attempt has been made to meet this demand by means of the fiscal autonomy convention, according to which the superintendence, direction and control of the Secretary of State are held in suspense, when the Government of India and the legislature are in agreement on any question of fiscal policy. If the attempt is to be made to give to Indians a larger share in moulding the policy of the central Government, there can be no question that in the economic

sphere the demand for a further advance is keen, and unless in this region some transfer of power proves feasible, it will not be possible to satisfy Indian aspirations. The question to what extent power can be transferred, therefore, is of great significance and must be fully considered. We have no desire to magnify obstacles, which it may be possible to remove, into insuperable barriers, but there are real difficulties to be overcome which cannot be ignored or brushed aside. Most of the subjects which require mention are under the administration of the Commerce Department, but we shall refer also to cognate subjects, which are at present controlled by other departments of Government.

183. **The customs tariff.**—The most powerful instrument which a Government desirous of pursuing an active programme of industrial development can employ is the customs tariff. But the tariff has a dual aspect, for while tariff policy exercises a decisive influence on the economic and industrial life of the country, the Government of India must look to the tariff as the principal source of their revenues. Revenue considerations, therefore, must play a large part in shaping tariff policy. Again, tariff policy may have international reactions, or may raise questions between India and other parts of the Empire, and Parliament must necessarily retain control in the sphere of external relations. For the present, therefore, two limitations on India's complete control of the tariff are inevitable. Of these, the financial limitation is inherent in the facts, and a finance minister responsible to the Indian legislature, no less than an official finance member, would necessarily regard the tariff from a point of view by no means identical with that of the member or minister in charge of the commerce portfolio whose primary interest is the effect of customs duties rather than revenue. But even during the period within which, for the reasons adduced in paragraph 178, the control of the Finance Department might remain in official hands, the financial considerations need not prevent substantial progress in the direction which Indian opinion favours. The second limitation is not likely to involve constant interference, but is consistent with the grant of considerable latitude to the Government of India and its representatives, when commercial negotiations have to be undertaken either with foreign countries or with other parts of the British Commonwealth. So far as Great Britain itself is concerned, control might reasonably be exercised to secure for British goods most favoured nation tariff treatment, but it would be for the Indian Government and legislature of the future to decide all questions of preferential rates of duty. Other countries within the Empire do not necessarily extend most favoured nation treatment to Indian goods, and subject only to the general super-

vision of the Secretary of State, the authorities in India should be free to deal with each case as it arose. Apart from the two limitations we have mentioned in the spheres of finance and external relations, we contemplate that there should be no outside interference with India's management of her customs tariff, and we believe that a wide field will be opened up within which Indian members of the Government will be able to give effect to India's desires.

184. **Discrimination against British business.**—We have referred in an earlier paragraph to the necessity of devising effective guarantees, which would secure British firms and companies doing business in India against unfair discrimination. The apprehensions felt by the British business community arise chiefly in connection with the laws relating to joint stock companies generally, and to insurance and banking companies in particular, the laws relating to merchant shipping and inland navigation, the policy which might be pursued in the development of industries by means of bounties or direct State assistance of other kinds, the position of public utility companies, such as railways, tramways and electric supply companies operating under licence or under contract with the Secretary of State, and of the holders of mining leases granted by Government, and the security of those engaged in professions and callings for which special qualifications are required, such as those of doctors, chartered accountants and lawyers. The field covered is a wide one, and includes many subjects of first class importance to India's economic future. We believe that if once agreement could be reached as to the position of British enterprise in India, and if by that means the apprehensions of the European business community could be removed, there is no reason why the control of policy should not pass into Indian hands, and in that case the occasions for interference by the representatives of Parliament would be very infrequent. The problem is to devise means by which India's reasonable aspirations can be satisfied without injustice to those British trading interests which have contributed much to India's past history, and which, we believe, have a valuable part to play in India's future. The question is both important and difficult, for while we cannot but sympathize with the earnest desire of Indians to see their countrymen taking an increasing share in the commercial and industrial life of the country, we must also take account of the anxiety with which European business men regard the future after the transfer of power has taken place, and in so far as this anxiety may seem to be well founded, we are concerned to provide safeguards against injustice. We could not in the space at our disposal attempt to discuss in any great detail the various subjects which would require consi-

deration before any settlement could be reached, nor indeed is it necessary to do so for our present purpose. But it may be useful if under the various heads we attempt to indicate the apprehensions which are felt and the reasons underlying them.

185. **Qualifications for the practice of certain callings.**—Some of the subjects to which we have referred can be dismissed briefly. The qualifications required for the practice of certain professions or callings may be mentioned first. A chartered accountant, for example, may be qualified under the existing law to practise his profession in India in virtue of the British qualification which he possesses. It should certainly be open to the legislature to prescribe what qualifications would be necessary for the future, and to require that these qualifications should be the same for all candidates of any nationality, but apprehensions are undoubtedly felt that the legislation might take a form, which would deprive those qualified under the existing law of the privileges which they enjoy. We do not think that on this point there will be any serious controversy, but legislation of the kind apprehended would obviously be unjust.

186. **Public utility undertakings.**—Next in order it may be convenient to take public utility undertakings, operating under licences from Government or under contracts with the Secretary of State, and the companies or firms holding mining leases from Government. Ordinarily both the licences and the contracts give an option to Government to decide, at fixed periods, whether the concession should be terminated, and lay down the terms upon which, if the option is exercised, the property of the company must be acquired. Similarly, mining leases are granted for fixed periods, at the end of which they terminate, if not renewed. Save in so far as financial considerations may have an important bearing on the decision whether to terminate a concession or not, we see no reason for the exercise of any special powers of control by the agents of Parliament, when the termination of a concession at the appointed date is in question. But apprehensions are in fact felt by the non-Indian companies, who have received these concessions, that either the powers (other than the power of termination) reserved to Government under the licence or contract may be exercised to their detriment, or that by legislation a concession may be terminated before its due date, or alternatively that the terms of a concession may be modified during its currency to the detriment of the company. We entertain no doubt that power should be reserved to secure just and equitable treatment in this respect for firms and companies concerned, if the occasion for its exercise should ever arise.

187. **Ordinary British commercial undertakings.**—The cases considered in the last two paragraphs are comparatively simple. When, however, we turn to consider the position of the British companies which enter into competitive business in India, competing on equal terms with Indian enterprise, the case is different and requires fuller consideration. Such companies may be engaged in general trade, or industrial production, or may undertake more specialized business such as banking or insurance. So far as the companies engaged in industrial production are concerned, apprehension has been aroused by the frequently expressed demand for direct Indianization, to be secured by the imposition of conditions as to the number of Indian directors, and the facilities to be afforded for the training of Indian apprentices, or, in the case of new companies, by requiring that a proportion of the shares, sufficient to establish Indian control, should be definitely reserved to Indian investors. Sometimes it has been suggested that these conditions should be enforced only when the company is engaged in a protected industry, or when it is in receipt of bounties (or other direct assistance) granted by the State in order to encourage the development of industries, and sometimes that they should be imposed upon all companies as a condition of engaging in a particular manufacture or trade. The proposals made as regards insurance and banking companies have been somewhat different. Direct Indianization has not been much in evidence, and the line taken has been to advocate schemes under which non-Indian companies would be allowed to operate in India only under licence, or subject to special restriction and conditions. Some of the proposals made may be regarded as fair subjects for discussion on their merits, provided that all companies, whether Indian or non-Indian, are to be treated alike, but some advocates of proposals of this kind have not attempted to conceal the fact that one of the objects, which they had in view, was to promote the growth of Indian companies at the expense of British companies, and for this purpose to impose restrictions on non-Indian companies, which would not be applicable to Indian companies. Other examples might be given, but we shall mention only two. In Bengal there have been many expressions of feeling against the British companies which operate the inland steamship services. We are not concerned here with the merits of the complaints made, but the attitude of those who have been prominent in the agitation makes it clear that their ultimate objective is the transfer of the inland steamship services to Indian hands, and that, in their view, the powers of Government and of the legislature ought to be freely used to achieve that result. Finally, we may refer in a sentence to the agitation on the subject of the reservation of the Indian coastal

traffic to vessels owned and managed by Indians. The object sought to be attained is the development of an Indian mercantile marine, but the method proposed to be adopted is the exclusion from the trade of all non-Indian companies.

188. **Indian feeling that existence of British enterprises blocks advance.**—We have said enough perhaps to make it clear that the apprehensions of the European business community are not without substantial foundation. During the last ten years, in one branch of commerce and industry after another, the evidence has been unmistakable that important sections of Indian opinion desire to secure the rapid development of Indian enterprises, at the expense of what British firms have laboriously built up over a long series of years. There is nothing surprising in the fact that national consciousness should thus have found expression. Indians who desire to see the growth of Indian banking, Indian insurance, Indian merchant shipping, or Indian industries find themselves faced by the long-established British concerns whose experience and accumulated resources render them formidable competitors. In these circumstances, it may seem to them that the ground is already occupied and that there can be no room for the growth of Indian commerce and industry until the British firms which are already in the field can be cleared out of the way. But, however natural such feelings may be, they might lead, if allowed free scope, to serious injustice, and partly as a consequence of this and partly for other reasons they are fraught with grave danger to the political and economic future of India. We feel real apprehension as to the consequences which may ensue, if the present attitude of mutual suspicion and embitterment is allowed to continue and to grow worse. For this reason we regard it as of high importance that the attempt should be made now to arrive at a settlement which both parties can honourably accept. So long as the power to direct policy in the economic sphere rests with the agents of Parliament, it will be impossible, we fear, to combat the suspicion, however unjust, that the interests of British trade weigh more with the Government than the interests of India. In itself we regard this as a cogent reason why commercial subjects should in future be administered in accordance with the views of the legislature. But equally, if the transfer of power were to take place before means had been found to allay the reasonable misgivings of British business men, the consequences must be grave. In the last resort no doubt overriding powers would have to be reserved to the agents of Parliament to interfere in order to prevent injustice and to secure fair treatment. But if, as we fear in default of agreement might be the case, occasions for interference were

frequent, the friction generated would be intense and the harmonious working of the administration seriously prejudiced.

189. **Necessity of doing justice to both British and Indian points of view.**—If agreement is ever to be reached, full justice must be done both to the British and the Indian points of view. The differences which have disclosed themselves relate not to aims but to methods. We do not believe that the British community in India have any lack of sympathy for Indian ambitions, or any desire to retard the development of Indian industry and commerce. But what has aroused their fears is the tendency displayed in certain quarters to advocate measures designed to secure the rapid development of Indian enterprises at the expense of the British concerns already established in the country. Proposals such as we have described in paragraph 187 cannot but convey the impression to the British business community that, if commercial policy came to be administered in responsibility to the Indian legislature, they would have no security of equal treatment, that they would be left to carry on their business only on sufferance, and that indeed they might expect to be treated in all respects as foreigners. Such a position they may well feel, apart from any question of justice, is consistent neither with the part which the community has played in the development of the country, nor with the intimate relations which must continue to exist between Great Britain and India. But if once they could be assured that an Indian Government would treat them not as aliens but as citizens, we do not doubt that they would play a worthy part in the commercial life of the country, and that as time went on their co-operation in furthering the attainment of the objects which India desires would be forthcoming in increasing measure.

From the Indian side, the objection may be raised that, if the interests of British concerns are to be fully safeguarded, no room is left for the development of Indian commerce and industry. Where feelings of this sort are in fact entertained, we think they are largely due to a misconception. For one thing they do much less than justice to the developments which have already taken place, particularly, to give only one instance, in the cotton mill industry. Again, if the control of the tariff is placed in the hands of the Indian legislature, it will control the most powerful instrument which can be used to promote industrial development. With certain exceptions, the principal British firms established in the country are for the most part engaged in enterprises, such as the jute mills and the tea gardens, which are not likely to come

within the scope of any protective policy, and Indian companies could hope to start unhandicapped by the competition of established British concerns. Another point to be remembered is that enterprises, at present British, may in the ordinary course of events and owing to natural causes pass into Indian hands, as has already happened on more than one occasion. Apart from actual transfers of ownership, we do not doubt that British undertakings will in future find it to their advantage to go a long way in the direction of Indianization, by providing facilities for the training of Indians, by enlisting the support of Indian capital to the largest extent practicable, and by the appointment of Indian directors to companies registered in India, or by the appointment of local boards containing Indians, if the company is registered outside India. Many British firms, both in India and in other countries, have adopted this policy in the past, but they would no doubt feel that there is a wide difference between a process which comes about through natural causes and one which is artificially and arbitrarily imposed by governmental action. Finally, there are methods by which Indian aspirations could be satisfied without inflicting injustice. Thus, for example, when it is proposed that direct State assistance should be given for the encouragement of industries, it would be perfectly open to the Government to attach conditions as to Indianization, in the case of all firms who may apply for assistance but were not already engaged in the business at the time the scheme of assistance was sanctioned. This was the recommendation in 1925 of the External Capital Committee, of which two Members of the Government of India were members, and both before and after the submission of the Committee's report, action in this sense has been taken as, for example, in the Steel Industry (Protection) Act of 1924. No one, we think, could fairly claim that the discretion of the legislature should be fettered, except to the extent necessary to secure justice to those firms which had already established themselves in the country. As a final example of what is in our minds, we may refer again to the inland steamship companies. It might be considered desirable on public grounds that the inland steamship services should be brought under public control as part of the general transport system of the country, and administered in close connection with the railways. In such an event, all that the existing companies could fairly claim would be that they should not without compensation be deprived of their existing right to operate their services and that the compensation to be paid should be determined by an independent tribunal.

190. **Desirability of agreement.**—We have attempted by illustration to indicate the lines on which British and Indian

opinion might be brought together, but it is not possible at this stage to go further. In our view, the matter is one which requires full and frank discussion between those principally concerned, and we have no doubt it will receive close attention at the Round Table Conference. There are of course many points which would require consideration in detail, and it may not be possible for the Conference to examine them fully, but if the prospects of agreement seemed good, they might suitably form the subject of further discussion either in India or in England. The essential pre-requisite of a satisfactory agreement seems to us to be the frank recognition on either side of what the other can reasonably claim. The British business community has played an important part in the history of the country, it controls commercial enterprises of the greatest magnitude, its elected representatives sit, and will no doubt continue to sit, in the legislatures, it can still make valuable contributions to the welfare and prosperity of India, and its members may rightly expect that they should not be treated as foreigners. We have already referred to the intimate connection which must continue to exist between Great Britain and India, and it seems to us to follow that, subject always to India's right to receive reciprocal treatment, citizens of any part of the Empire should be allowed to enter India freely, to engage freely in any trade, business, profession or calling, and when established in India, to receive just treatment. From India's side it may well be urged that she should be free to develop her own industry and commerce by any means which do not inflict injustice on any section of the community, and do not involve the exclusion of British citizens from participation in India's future development. A further claim might also be put forward on her behalf. There are enterprises which Indians regard as national, and which at present are mainly or wholly in British hands. It would be idle to expect that they would be content for an indefinite period to remain without their appropriate share in the conduct of these enterprises, and if the methods at first proposed in order to satisfy Indian hopes must be ruled out because they involve injustice, or are inconsistent with the position which Great Britain holds in India, Indians may fairly ask that the British business community should co-operate in finding other methods to bring about the desired result.

The possibility of reaching an agreement on these difficult matters depends largely upon the spirit in which they are approached. Notwithstanding the unfortunate history of the last few months, we believe that there is sufficient goodwill on both sides to overcome the difficulties if they are frankly faced. The importance of reaching a permanent settlement of the question can hardly be exaggerated.

More perhaps than any other single factor, it would help to create harmonious relations between Great Britain and India, on the strength of which we could look forward with confidence to a future in which Indian and British enterprises could work together on terms of mutual advantage and respect.

RAILWAYS.

191. **Administration of the Railway Department.**—The commercial and industrial prosperity of any country is largely dependent on the efficiency of its transport system, and particularly of its railways. In India the distances are so great that low freights are essential to the growth of industries, as well as to the welfare of the agriculturist, while at the same time the railways are by far the largest purchasers of manufactured articles in the country, and the railway demand is a vital factor in the prosperity of the engineering industry. In these circumstances it is natural that those who desire freedom to develop Indian industry and commerce on national lines, should also put forward an insistent demand in regard to the railways. In our view the demand is one which should be met as far as possible, and we think that if in the future the control of commercial and industrial policy is to rest with the Indian legislature, the general direction of railway policy should be placed in the same hands. It becomes necessary therefore to consider both the limitations which, for the present, Parliament might think fit to retain in order to safeguard those matters in which it is interested, and also the conditions under which the control of policy could safely be transferred. The latter point is one to which we attach great importance, for while in all countries railway policy is a matter for Government and the legislature to decide, it by no means follows that the commercial management of railways can be wisely or safely exercised by those whom the legislature directly controls.

192. **Purposes for which Parliament must retain control.**—The purposes in which Parliament must, we think, continue to be interested so far as the railways are concerned fall under the heads of Defence, Finance, the Services, and the Anglo-Indian community.

Defence.—Those who are responsible for the defence and internal security of the country clearly cannot disinterest themselves in the efficiency of the railways, for any serious breakdown might have calamitous consequences in a crisis. It is not only the strategic lines on the frontier which are in question, but also the main trunk lines throughout India, and the military authorities are entitled to assurances both

as to the adequacy of the equipment of the lines and of their standard of maintenance, and as to the efficiency of the traffic arrangements.

Finance.—Under the head Finance, account must be taken of the enormous capital sums (largely raised in Great Britain) which have been invested in the railways. It is true that the security on which the loans were raised was not the railway revenues alone, but the whole of the revenues of the Government of India. If, however, the railways were unable to earn their interest charges, it is much to be feared that the burden would be too heavy for the Government of India to meet, and the solvency of the railways is therefore an interest which Parliament is bound to safeguard. There is another point at which the connection between the railways and the Finance Department is close and intimate, for the raising of capital for railway development must both react, and be dependent, on the general credit of the Government of India and its financial circumstances from time to time. Whether the connection could be rendered less direct and immediate by proceeding further with the separation of railway finance is a question which should be explored, but under existing conditions the Finance Department is most intimately concerned in many questions of railway policy.

Services.—Under the head Services, several points require notice. In the railway services, as in others, the existing and accruing rights of officers appointed by the Secretary of State must be safeguarded, and it will be important also to ensure that a large number of the senior officers do not quit the service prematurely. Indianization is now going forward rapidly, the rate of Indian recruitment for the superior services being 75 per cent., and we have no desire to retard the process; but the possibility of efficient administration depends on the retention of the existing senior officers until Indians are in a position to replace them. Finally, questions may arise as to the percentage of European recruitment, which for the future may be deemed necessary on military grounds.

The Anglo-Indian community.—The Anglo-Indian community has in the past rendered very important services to the railways and still holds a large number of posts in particular branches of railway work. The economic life of the community is indeed to a large extent dependent on the opportunities of employment which the railways offer, and its members are gravely apprehensive of what may occur, if and when any change takes place in the present system of administration and control. In view of the history of the community, a special obligation, we think, rests upon Parliament, before relaxing its own control, to ensure, as far as

may be practicable, that the interests of the Anglo-Indian community are protected.

193. **Necessity of separating commercial management from direction of policy.**—Before explaining how we think the purposes of Parliament may best be safeguarded, we must turn to the question to which we made brief allusion at the end of paragraph 191. The experience of many countries has shown the disadvantage of subjecting the administration of State-owned railways to the close and detailed scrutiny of a popular legislature, which concerns itself not only with broad questions of policy but also with administrative practice in all its ramifications. Under the present constitution, the legislature can exert considerable influence on the railway administration, and the dangers to be apprehended are already becoming evident. We can find no reason for thinking that the difficulties in India would be less than they have been found elsewhere, and we have no doubt that a continuance of the present system, under which the railways are directly administered by a branch of the executive Government, would, as soon as the legislature was in a position to assert its authority, develop tendencies leading directly to inefficiency and ultimately endangering the financial results of railway working. The member of an official Government not responsible to the legislature is in a position to resist these tendencies when they threaten to work serious harm, but when a member or minister must work in harmony with the legislature, if he is to retain his position, the pressure may become irresistible. It seems to us clear that there can be no material change in the control of railway policy in railway matters, until a system of administration has been set up which, while leaving to Government and the legislature the control of broad questions of policy, would locate the commercial management elsewhere.

A change in the system of administration seems to us necessary for another reason. The solvency of the Indian railway system and its efficient working are matters in which Parliament is interested both on financial and military grounds, but it does not seem to us practicable to secure these interests by attempting to control the day to day administration of the department. If an elected member of the Government replaced the present official member and became responsible for the commercial management of the railways as well as for the direction of policy, he might often be led, under pressure from the legislature, to initiate action which the agents of Parliament felt to be dangerous both to solvency and efficiency. They would then be faced by the choice between two alternatives. On the one hand frequent interference would be most prejudicial to the smooth working of the administration, while on the other continued acquiescence

would tend to render nugatory the powers which Parliament desired to retain. In these circumstances, we are forced to the conclusion that, if the purposes of Parliament are to be secured, this can be done only by modifying the system of administration, and not by an attempt at detailed control, which would be foredoomed to failure.

194. **Proposed statutory railway authority.**—We can describe the scheme which we contemplate only in the broadest outline. An authority for the administration of the railways should, we think, be set up by Statute. The Act would, of course, provide for the constitution and powers of the authority, and for the powers of control to be reserved to the Government of India. From the outset the authority should include Indian members. It would, we think, be desirable to make statutory provision for the general principles in accordance with which the railways should be administered, especially on the financial side, as for example, the manner in which the allocations for depreciation should be calculated, the constitution of the reserve fund and the purposes for which it should be used, and the amount of the contribution to general revenues. The control of policy in all important matters would remain with the Government of India and the central legislature, but it would be important to leave the statutory authority free to act without interference in the detailed arrangements it might make to carry out the policies laid down. Much will depend on the precision with which from the outset the powers to be exercised respectively by the authority and by the Government of India can be defined. But we cannot attempt at this stage to indicate what these powers should be. The question requires full investigation in order that the largest possible advantage may be derived from the experience of other countries where the State management of railways has led to difficulties.

195. **Necessity for enquiry.**—It will be obvious that it would be impossible to devise a satisfactory scheme of administration without a detailed enquiry by a committee or commission. Such an enquiry should, we think, be instituted as soon as possible. It would be the duty of the investigating body to make recommendations as to the manner in which the authority should be constituted, the powers it should exercise, the matters for which provision should be made in the Act setting up the authority, the control to be reserved to the Government of India, and the powers to be reserved to the Secretary of State in order to safeguard the purposes of Parliament. A complete enumeration of the matters to be examined we cannot of course attempt.

but they should certainly include the subjects specified in paragraph 192 above. There is one other matter of great importance. The existence in India, side by side, of State-owned and managed railways and railways owned by the State but managed by sterling companies domiciled in England, makes it peculiarly difficult to devise a satisfactory scheme for setting up a statutory railway authority for the administration of the railways. The contracts of the company-managed railways are with the Secretary of State, and though the Government of India exercises by delegation many of the powers reserved by the contracts to the Secretary of State, the ultimate control rests entirely in his hands, and the companies, by reason of their domicile, have direct access to him. It will be necessary for those making the enquiry to examine the question closely, and to consider how far the powers of the Secretary of State under the contracts should be exercised by the statutory railway authority, and in what matters the Secretary of State himself should reserve control. Their task will be extremely complex and difficult, but we have no doubt that the difficulties must be faced. It is our desire to see the direction of railway policy placed in the hands of popular ministers, but it seems to us an indispensable preliminary that a system of administration should first be established, which will provide for the efficient commercial management of the railways, and will also to a large extent safeguard the purposes of Parliament and avoid the necessity for detailed control.

196. **Method of legislation.**—Before any scheme for establishing a statutory authority to administer the railways is adopted, it would be necessary that Indian opinion should have full opportunity of expression, and any commission or committee which may be set up to consider the question should of course include representatives of Indian opinion as well as the necessary financial and railway experts. These enquiries must take time, and since it is desirable that the new system of administration should be ready to function by the date on which the new constitution comes into force, it is evident that special steps will be necessary in order to expedite the procedure. We should propose that, following the South African precedent, provision should be made in the constitution for the establishment of the railway authority by the insertion of a section in the Government of India Act, the detailed provisions necessary being included in rules made under the Act. These rules might be subject to modification by the Indian legislature after the lapse of a sufficient period to enable the new authority to establish its position and all concerned to gain experience of the working of the new system.

EXTERNAL AFFAIRS.

197. In the immediately preceding sections we have been concerned to develop our suggestions for the general structure of government at the centre, according as they have application to particular departments. We now turn to India's external relations in which several departments are concerned. The problems which arise have not fallen within the scope of the proposals of the Indian Statutory Commission, perhaps because no definite constitutional provisions appeared to be required in the structure which they contemplate. But the demand of Indian opinion, which we have described as *directed to obtain self-government at home and national recognition abroad, leads us to consider to what extent the* central executive which we contemplate might be concerned with the external relations of India with the other parts of the Empire and with foreign countries.

The existing position has been described in the memorandum which we submitted to the Indian Statutory Commission on the status and position of India in the British Empire and in the India Office memorandum on the international status of India. It is beyond doubt that there has so far been no delegation of authority to the Government of India in regard to external matters. As regards commercial agreements with foreign countries she has not the power which the Dominions have to enter into direct negotiations. The Government of India Act restricts the power of the Governor General in Council to make political treaties and forbids the Indian legislature, without the previous sanction of the Governor General, to legislate regarding the relations of Government with foreign Princes or States. We do not contemplate that in present circumstances the Government of India could have a decisive concern with those foreign relations which closely overlie the right to make war and peace. On first class questions of foreign and Imperial policy independent action by India is not yet within the realm of practical politics. India is indeed more continuously and practically concerned with foreign policy particularly in the Middle East than any of the self-governing Dominions. But whatever may be the degree of consultation with the Government of India, and whatever the agency functions which that Government may perform, the decisions must still remain with His Majesty's Government. Nevertheless, there is a large range of external relations which may conveniently be so classed in distinction from foreign affairs, and in which we see scope for an increasing recognition of the individuality of India among the nations of the world. It may well be that if the purposes of Parliament are defined, as we propose, the Government of India may enjoy considerable liberty in

matters such as commercial treaties, and the treatment of Indians overseas. We make no precise proposals in this regard for, whether our relations be with countries within or outside the Empire, we consider that the functions of the Government of India must develop by agreement and convention rather than by the enactment of constitutional provision. It is by the growth of understandings and conventions and not by provisions of positive law that the Dominions have attained their present position. These are the lines on which India's authority over her own external affairs must grow. Such a development not only postulates an alteration in the constitution of the Government of India which would confer upon it a distinct individuality for domestic purposes, but is also its necessary complement if the aspirations of India for a recognition of its status at home and abroad are to be satisfied. The Indian Statutory Commission have taken the first step in this direction, by recommending that in future the Governor General, and not the Crown, should appoint the members of the central executive, and in earlier paragraphs we have sought to describe what appeared to us to be the implication of such a change. If, in addition, India by convention were authorized to negotiate and conclude agreements with other countries within the Empire and even with foreign nations her feet would be set firmly upon the path along which the Dominions have preceded her.

RELATIONS BETWEEN CENTRE AND PROVINCES.

198. **Principles of classification.**—Before we leave the discussion of constitutional machinery in the provincial and central spheres, it will be convenient to say something upon the degree and method of adjustment that their mutual relations are likely to require. The Indian Statutory Commission conclude* their chapter on the relations between the centre and provinces, with a consideration of the distribution of administrative responsibility. In an earlier chapter on the provincial legislature, they state† their conclusions regarding the distribution of subjects of legislation between the central and the provincial legislatures. Sir Walter Layton's scheme similarly makes a distribution in the financial field. It will be convenient if we deal in one place with these questions of jurisdiction, and with the further question of how far provincial jurisdictions may be subordinate to or correlated with central authority. We are here in a field within which final dispositions cannot now

*Volume II, para. 190.

†Volume II, para. 96.

be made. The ultimate form of the constitution cannot yet be settled, or even be predicted with confidence. We need not, therefore, on merely theoretical grounds radically disturb arrangements which have in the past proved satisfactory. " It is, nevertheless ", as the Commission observe,* " important to devise the immediate structure in such a way as to avoid placing any unnecessary obstacles in the way of any natural future developments ". Considerations of that nature, we presume, led the Commission to leave intact, save for a few matters of detail, the existing distribution of legislative and administrative authority, and to maintain,† as we understand them to intend, the present practice of deciding such questions by rule. We presume also that the Commission do not accept the proposal that " residuary functions " should be provincial. In our view it is not improbable that the ultimate solution of the problem of jurisdictions may be the provincialization of residuary functions, but we do not feel sure that the conditions are yet prepared for a decision of this very important point in the future federal constitution of India. Two local Governments have advocated that residuary powers should rest with the provinces and not with the centre, and apparently contemplate that a final and rigid classification of that nature should be made. One of our number would prefer to put that arrangement in a somewhat more elastic form, making statutory provision that any matter which is not already specified under the existing rules, should be assumed to fall within the jurisdiction of the local Government, and that in case it is claimed to be within the jurisdiction of the central Government, the matter should be decided by the Governor General. It is felt that, in view of the grant of autonomy to provinces and the desire to let provinces develop on autonomous and federal lines, this is the natural course to adopt. It does not in any way commit the centre to any particular constitution in future, while it enables the central Government to bring the matter within its own jurisdiction if it really finds it necessary to do so. Others, however, feel that so grave a decision cannot be taken at once. In their view it would be premature to entrust to local Governments, now to be equipped with untried machinery, all functions of government other than those specifically assigned to the central Government. Such a decision could be taken only on theoretical grounds and might have inconvenient consequences. It might, for instance, be argued that, if the functions of the central Government alone were exhaustively

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*Volume II, para. 180. †Volume II, para. 190.

prescribed, the onus of proving that any action taken was *intra vires* would rest on it alone. Such a position might derogate from the vigour of central administration, and might have the effect of impairing the liberty of the Governor General to be the interpreter of this portion of the constitution. It seems probable that a scheme of exclusive jurisdictions could not be worked until the interpretation of the constitution is entrusted almost entirely to judicial authority, and for that development, other objections apart, conditions are far from ripe. The question is at present largely one of status which may await decision till the new responsible Governments in provinces have proved themselves. So far as it is a matter of efficiency of government, the present classification appears to us, as it appeared to the Commission, to be generally satisfactory, and we hesitate to decide now that functions, which Government in future may have to assume but cannot at present foresee, should be provincial. We prefer to maintain the freedom which the Devolution rules now afford, to extend the provincial field as new activities of government develop rather than to be driven to devise means of assuming these activities to the central Government, as occasion later may arise, from among undefined jurisdictions allotted on general grounds to provinces.

Holding these views, we are in general agreement with what we take to be the recommendation of the Commission that the classification of subjects should continue to be regulated by rule. We recognize that* " changes in the rules may be necessary from time to time ", and we see in that necessity good ground for avoiding the rigidity of statutory enactment.

199. **Legislative jurisdictions.**—Legislative jurisdictions must indeed rest on enactment, but we share the strong desire of the Commission† " to see maintained the provisions of the existing Act ". These provisions establish a certain concurrence of jurisdictions, kept apart by a necessity imposed on both central and provincial authorities of obtaining the previous sanction of the Governor General, before the classification of subjects made by rule is transgressed. In effect, they protect legislation, provincial or central, from undue challenge of its validity, but provide for selection of the forum in which proposals may be debated and enacted. The Commission find these provisions to be " ingenious and effective ". We believe them to be well-suited to the conditions of the country, and to have proved generally acceptable.

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*Volume II, para. 190. †Volume II, para. 96.

It is, however, possible to attack them on the grounds that the classification of subjects requires revision, and that the machinery of previous sanction is capable of improvement. In the first regard, the Commission reject* " any alteration of the law which would restrict the range of the legislative power of the centre ". They look rather to a freer use of the Governor General's power to permit provincial legislatures to undertake legislation on subjects technically central, and to a self-denying practice whereby the central legislature would make its enactments on such matters as social and religious customs adoptive or enabling. We think that these are lines which practice may be expected and should be encouraged to pursue. But we observe that two local Governments would make more rigid provision. The Government of Madras† would remove it from the power of the central legislature to legislate for matters which concern one province alone. The suggestion does not, so far as we are aware, proceed on any ground of complaint in the past, and we are reluctant to introduce into an already intricate system complications which necessity does not require. There is much in the suggestion as made which we could not accept. We could not accept it as a denial to the central legislature of a right to legislate on its own subjects of administration, if necessary, province by province, or, for instance, for individual ports or universities. Nor could we at once agree that certain provincial subjects should not be " subject to legislation by the Indian legislature " as they are at present. But if the Government of Madras desire that the central legislature should not legislate for provincial subjects, whose administration has no extra-provincial effects, we would expect that the result of such a provision would be little different from that produced by the present provisions for previous sanction to central legislation.

The suggestion of the Government of the United Provinces is of the nature of a check to be operated at pleasure by the local legislature. It is proposed that the local legislature should be empowered to require the central legislature to give to its legislation, affecting social and religious usages, an enabling form. It would be for the Governor General to decide when such a power became operative, by declaring whether the proposed legislation actually affected social and religious usages or not. We are in sympathy, as were the Commission, with the desire that amendments of social and religious usage should be left increasingly to local legislatures. But we would not readily agree that all amendments

*Volume II, para. 155. †Madras letter, para. 37.

should necessarily be so left, nor that the mechanism to secure provincial interests should be a provincial power of control over the centre. Measures of this kind would require the previous sanction of the Governor General before introduction into the Legislative Assembly, and are not now in practice taken into consideration till local Governments have been fully consulted. It would, we think, be adequate if a practice were established that such consultation invariably preceded the grant of previous sanction. But we would see inconvenience in a provincial power to revise the grant of previous sanction, or to sit in consideration of a measure under discussion in the Assembly, and to intervene at any stage, even the latest, of that discussion. We would ourselves trust to the recommendations, which the Commission have made, to secure due consideration of provincial interests.

The second ground on which the present system may be criticized is that the necessity for obtaining previous sanction to provincial legislation causes inconvenience and delay. Criticisms of this nature were made in the earlier period of the reformed régime, when the operation of the law of sanction was attended with some friction. That friction is now largely a thing of the past, and it is questionable whether any substantial practical benefit would ensue from a modification of the existing provisions. Nevertheless we would accept the suggestion of the Government of Bombay*, whereby a discretion would be taken to mitigate by rule the rigidity of the present law.

200. **Administrative and financial jurisdictions.**—The present distribution of administrative responsibility is commended by the Commission as generally satisfactory. We agree, and find support for the same conclusion in the views which the provincial Governments have expressed. We await the publication of the report of Mr. Whitley's Commission before submitting our recommendations for the distribution of functions in regard to industrial matters. The more particular recommendation of the Indian Statutory Commission in regard to the Criminal Intelligence Department is opposed by the Governments of Bengal, the United Provinces, and Assam. The Commission recommend that the classification of police as a subject of provincial administration should be accompanied by a discretion in the Governor General in Council to determine conditions regarding the organization of a provincial Criminal Intelligence Department. The Commission rightly regard the matter as important. An efficient intelligence service will depend on

*Bombay letter, para. 6, section 8

co-operation between local Governments and on co-ordination by the central agency. But the Criminal Intelligence Department organization must be part of the regular police administration of the province, as the Government of Bengal point out, and little practical value would attach to a power to impose control over only one branch of a unified machinery of police administration. The recommendation of the Commission, however, is in effect permissive, and we are prepared to accept it on that basis.

In earlier paragraphs of this despatch we have dealt in detail with the proposals of the Indian Statutory Commission regarding provincial finance. These matters also we have considered in the light of the principles of classification which we have just described. We would continue the existing practice by which financial authority is distributed by statutory rule, and we would retain residuary powers of taxation at the centre. These appear to us to be wise accompaniments of the entirely novel arrangements proposed by the Commission.

201. **Control.**—Turning to the questions of control, we find ourselves in complete accord with the recommendation of the Commission that Governors in the use of their special and emergency powers should be supervised by the Governor General and not by the Governor General in Council. These powers are exercised in responsibility to Parliament, and control of them cannot appropriately be exercised through an authority in close relations with a popular central legislature. It is on that ground rather than on any ground of the ultimate form of federation that we would employ only parliamentary channels of control over Governors.

We approach the Commission's recommendations* relating to "the normal powers of the centre over the provincial Governments" from the points of view of the scope of these powers and the manner of their exercise. The first of the eight categories framed by the Commission seems to us to be inevitable not only because central administration is vital, but also because a central Government without self-sufficient central agencies, must be in a position to secure necessary action in provinces. The provision has indeed the sanction of usage, and is not objected to by any provincial Government. The second category is drawn in wider language than the corresponding category in Devolution rule 49. The Government of Madras object to it on the ground that it gives the central Government too wide a measure of control. They would maintain the existing rule which provides only for inter-provincial disputes. The Government of the United

*Volume II, para. 182.

Provinces would accept* it only on " the understanding that the Government of India will be restricted to use their powers principally for the purpose of collecting information, giving advice, and settling a common policy, and not for the purpose of interfering in the actual details of administration in any province ". The criticism of the Government of the United Provinces appears to us, to contain the answer to the objection of the Government of Madras. It is because, in many matters which were not in dyarchic constitutions transferred, a common policy may need to be determined without waiting for disputes between provinces to arise, that a new definition of central control must be sought. We agree with the Commission that the definition must be in very broad terms. But we also agree with the Government of the United Provinces that means must be sought whereby provincial responsibilities may be safeguarded. The Government of the United Provinces would find these means in a definition of the spirit in which control will be exercised. The Commission have provided a check in the personal and entire discretion of the Governor General to decide, in any given instance, the scope of control. We ourselves hope that that discretion, combined with the restrictions on the method of control which we shall presently suggest, will allay fears that the intervention of the central Government may be excessive.

No difficulty arises about the third category which is, however, not so much a matter of control as a distinct power which the centre must possess. In a preceding paragraph we have stated our views upon the fourth category regarding control of provincial borrowings. The fifth and sixth categories might, we think, well be treated in the chain of relations between the Secretary of State, the Governor General and the Governor, and should not be classed as matters within the superintendence, direction and control of the central Government. The proposals† of the Commission regarding security services confer on the Secretary of State a power to require provincial Governments to employ these services in such numbers and in such appointments as he thinks necessary. They also imply the power to exercise disciplinary authority. It might be convenient if the Secretary of State were to delegate to the Government of India suitable powers, possibly to the extent suggested* by the Government of the United Provinces. But we see no reason why this should be done by statute as the Commission appear

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*U. P. letter, para. 47 (*ii*). †Volume II, para. 329.

to contemplate. The phrase* " safeguarding of Imperial interests " does not appear to us to be entirely free from obscurity, but we feel no doubt of the need for some such provision giving powers to the agents of Parliament.

The seventh and eighth categories appear to us to be more suitable for classification as central subjects than for expression as powers of control. If they were so classified the requisite power of control would flow from the first category. We recognize, however, that difficult questions arise, as they have arisen elsewhere, for instance in Canada, regarding the participation of provinces in decisions reached by the Government of India in external affairs. The subject is a difficult one, and its solution will probably be found through the operation of practice and convention. But whatever procedure may be approved for reaching decisions, and we recognize to the full the desirability of previous consultation with provinces, it is clear that the final authority must rest with the central Government, in whom must also reside power to make the decision effective.

We conceive of these powers being exercised, as central control is at present normally exercised, by way of consultation, advice and even remonstrance. If, however, the Government of India were unable by these methods to get its way, we would not confer upon it a further mandatory power, but would expect it to advise the Governor General to act in relations with the Governor. The chain of authority would be the Governor General's powers of supervision over the Governor, and the Governor's overriding powers over his Cabinet. The machinery of control which we have described seems to us to reconcile the claims of central and of provincial authority most conveniently. On the one hand, we do not desire to exclude the Assembly from discussion of matters which fall within the proper scope of the central executive. On the other, we see objection to placing a Governor or his ministers in the position of receiving orders from an executive in relations with the Assembly. In practice the necessity of obtaining the decision of the Governor General, before it can be held that provincial action affects the interests of some other part of India, will be an additional security that the provincial field is not unduly invaded by the powers of supervision.

202. **Co-operation and co-ordination.**—The recommendations of the Commission for co-operation between central and provincial Governments and for co-ordination of nation-building services do not, except in one other respect, involve

* Volume II, para. 182.

any new constitutional provisions. We have already accepted the suggestion* that it should be rendered constitutionally possible, under suitable restrictions, to assist provincial objects from central funds, and *vice versa*. "Co-operation",† say the Commission, "should be secured by the general goodwill of the Governments concerned, rather than by the imposition of specific central control". We agree, and although we recognize that the Commission also propose† that the central Government should "in future have a more authoritative position than it now enjoys, constitutionally, in the transferred sphere", we think that the restrictions placed on the second category of control will obviate danger of co-operation being secured, save in case of necessity, in any other way.

THE SERVICES.

203. **The Indian Civil Service and Indian Police Service.—Continuance of recruitment.**—The question of the steps to be taken in regard to those services which are still recruited by the Secretary of State on an all-India basis, is one of great importance for the future administration of the country and, we think, for the successful working of the new constitution which it is proposed to set up. The Statutory Commission have rightly said that the Indian Civil Service and the Indian Police Service stand in a class by themselves as the "security services", upon which depend the organization and direction of the general administrative system and the maintenance of law and order. The Commission recommend that these two services should remain on an all-India footing, and that recruitment for them should be made by the Secretary of State. The majority of the local Governments are very decidedly in favour of this recommendation, though within the Governments there are dissentient views. We ourselves have no hesitation in supporting the proposal of the Commission. It has been objected that a provincial Government cannot feel unhampered in the exercise of its authority, so long as it is not free to recruit all its services on its own terms and have the final voice in controlling them. The anomaly may be admitted, but it must at the same time be recognized that considerable risks will be taken if the direction of policy in all provincial subjects is transferred to popular Governments, and that, if simultaneously far-reaching changes are made in the administrative machine whose task it is to carry out policy, there is danger that the new system may start under a serious handicap. It is necessary to keep the administrative foundations sound, while the new

*Volume II, para. 187. † Volume II, para. 184.

constitution is facing the difficulties which are likely to confront it at the start. Whether, after these have been surmounted, it will be desirable to continue the recruitment of the security services on the present basis is a question depending on conditions which cannot at present be foreseen.

Many of those who advocate the discontinuance of the present form of recruitment have no desire to destroy the existing organization. They recognize the value of the work the services may be expected to perform during the transition period, and would be prepared to face the temporary anomaly of retaining officers, who can look outside the province for the ultimate protection of their interests. But there is a large volume of opinion which argues that the existing body of officers, retaining their existing privileges and safeguards, will be sufficient to tide over the period while the new constitution is establishing itself, and that by the time they disappear their services will no longer be required. We think that those who hold these views do not take full account of the probable results of stopping recruitment. We believe that, as soon as it was announced that recruitment was stopped and that the all-India services as a whole were in effect being closed down, the existing numbers would dwindle far more rapidly than is desired. Nor would it be easy, if necessity arose, to resume recruitment with success after an interval, which would have broken the old connections and traditions. The discontinuance of recruitment would in effect amount to taking a final decision at a time when the conditions of the future are still unknown. For these reasons we hold that it is essential to continue recruitment to these services on the existing basis.

204. **The same.—Recruitment by the Secretary of State.**— It is generally agreed that a decision to continue recruitment for the security services involves the continuance of their recruitment by the Secretary of State. The justification for maintaining these services is that they furnish officers of a high standard to deal with matters, the efficient handling of which is a primary interest of the country. It is of the essence of the case that the services should be able to attract the best material available. As the Statutory Commission point out, an all-India service has a much wider field of choice than any provincial service, and the status and traditions attaching to it attract the best class of Indian candidates, while there can be no doubt that without the security which is afforded by the protection of the Secretary of State, British candidates of the present standard could not be obtained. It has indeed been suggested by the majority of the Bombay Government that, while these two services should be retained on an all-India

basis, they should be recruited not by the Secretary of State but through the central Public Service Commission, and that they should look for protection to the Government of India. Somewhat similar ideas are expressed in other quarters. We fear that this compromise does not really meet the difficulties that are felt on either side. On the one hand British candidates have for a long time attached great importance to the protection of the Secretary of State, the value of which has been proved by experience. The Government of India is for them a distant body, whose general attitude to the questions that may affect them is unknown. Its protection will not give them the same sense of assurance as they derive from the protection of the Secretary of State. On the other hand, so long as the services remain on an all-India basis and their pay and conditions are settled by a central authority, whether it be the Government of India or the Secretary of State, the objection that local Governments would be hampered in the exercise of their authority is not removed. We do not consider that any intermediate position between recruitment by the Secretary of State and provincialization is likely to prove satisfactory and, as we hold that the time has not come for provincialization, we have no hesitation in supporting the proposal that recruitment should be continued on an all-India basis by the Secretary of State and under the guarantee of his protection.

205. **The same.—Rates of Indianization.**—All local Governments agree that, if the security services are to continue on an all-India basis, the existing rates of Indianization, which were fixed on the recommendation of the Lee Commission, should be maintained. These rates are calculated to produce an equality between the numbers of Europeans and Indians in the Indian Civil Service by 1939 and in the Indian Police Service by 1949. We propose no change in these rates of Indianization, which are indeed as rapid as appear to us to be consistent with the retention of the character and traditions of the two services.

206. **The same.—Future reconsideration.**—We have indicated above our view that the continuance of recruitment for these two services must not be taken as implying an intention that they should be retained indefinitely. All local Governments are agreed that the matter should after some period be reconsidered in the light of conditions then existing. There is a considerable variety in the suggestions made as to the period after which reconsideration should take place. The Punjab Government have suggested the year 1949, when the process of bringing the number of Europeans and Indians to an equality in the Indian Police Service will have been com-

pleted. The Government of Bihar and Orissa suggest 1939, the year in which a similar process in the Indian Civil Service should have been accomplished. The Central Provinces Government suggest that reconsideration should take place when equality of Europeans and Indians in each service has been reached. We doubt whether at this stage it is necessary to take a definite decision on the point, particularly as it seems to us inevitable that, when the proportions contemplated by the Lee Commission have been attained, the future of each service must be fully reviewed.

207. **The Indian Forest Service and the Irrigation branch of the Indian Service of Engineers.**—The Statutory Commission did not reach any definite conclusion as to whether all-India recruitment should continue for the Irrigation branch of the Indian Service of Engineers and for the Indian Forest Service. None of the provincial Governments had recommended this course, but the Commission were so much impressed by the importance of the work these two services perform, that they felt the matter required further examination. Local Governments have again expressed their opinions in the light of the considerations brought out in the report of the Commission. They are, however, still unanimous that there is no necessity to continue recruitment for the Forest Service on an all-India basis, and, with the exception of the Governments of the Punjab and of Bombay, no local Government recommends that all-India recruitment should be continued for the Irrigation branch of the Indian Service of Engineers. In two provinces recruitment for the Indian Forest Service has already been terminated as the result of the Lee Commission's recommendations, and important as the work of the Forest Department is, we do not feel there is sufficient justification for continuing recruitment for the Indian Forest Service in the other provinces, contrary to the recommendations of the local Governments. It can only be for very special reasons, such as those which apply to the two security services, that recruitment by the Secretary of State can be justified for services which will be working under an autonomous provincial Government. In the case of the Irrigation service the considerations are perhaps more evenly balanced. The revenue derived from the great irrigation works in certain provinces is a vital element in provincial finance, and the irrigation system is one of the chief foundations of the economic prosperity and contentment of the people. The official members of the Punjab Government go so far as to say that the efficiency and initiative of the irrigation officer is a factor for internal stability, practically on a plane with that of the officer in the security services. It is easy to understand the anxiety expressed by the majority

of the Punjab Government on the reserved side to retain what they regard as an insurance against deterioration in a service of such vital importance to the prosperity and economic life of the province. The recommendation of the Bombay Government is also doubtless due to the fact that the whole future of Sind depends on the success of the Sukkur Barrage irrigation scheme, in which, moreover, a huge capital sum has been sunk. It would be rash lightly to disregard the views of the local Governments in a matter of such fundamental concern to them. At the same time, we are anxious that recruitment should not be continued under the guarantee of the Secretary of State unless the need for it is beyond all reasonable doubt. In all provinces, except the Punjab and Bombay, local Governments are prepared to take the risk of dispensing with recruitment for this service on an all-India basis, and we accept their views. We have not been able to reach a final conclusion in regard to the Punjab and Bombay. There would be obvious advantages, we think, if it were possible to retain an all-India service for dealing with the great schemes of irrigation of the Indus valley, particularly as they affect two different local administrations. On the other hand, due weight must be attached to public opinion, and it would seem, from the views recorded by the Revenue Member and the Minister for local self-government in the Punjab, that there is definite opposition to the continuance on existing lines of recruitment for the Irrigation service in the Punjab. If it were decided that recruitment should be maintained on an all-India basis for the Punjab and Bombay, it would be for further consideration whether this recruitment should be carried out by the Secretary of State, as recommended by the Punjab Government, or by the Public Service Commission, on behalf of the Government of India, as recommended by the Government of Bombay. Whatever may be the decision in regard to the Punjab and Bombay, we are agreed that in other provinces recruitment by the Secretary of State for the Irrigation branch of the Indian Service of Engineers should not be continued after the introduction of the new constitution.

208. **The central services.**—The Statutory Commission have made no reference to the position of the central services, which work under the Government of India. For the most part the control of these services has been vested by the recent civil services (classification, control and appeal) rules in the Government of India. But the Secretary of State in Council is still responsible for the recruitment and control of the Indian Political Department, the Indian Ecclesiastical Establishment, persons appointed outside India to the superior telegraph engineering and wireless

branches of the Indian Posts and Telegraphs Department and a few civilian officers holding posts which are paid from army estimates. He also recruits officers appointed outside India to the superior railway services, and controls the comparatively few officers holding the King's commission on the active list of the regular army and the Royal Indian Marine, who are employed in certain central services. We assume that the Statutory Commission intended that there should be no change in these respects. That is also our view, except in so far as recruitment for the superior telegraph engineering and wireless branches of the Indian Posts and Telegraphs Department is concerned. We do not think it is necessary that the Secretary of State should continue in future to carry on British recruitment for this service. Its cadre is small. British recruits are not likely to exceed on the average one in two years and the number may even be less, and we have no reason to doubt that the Government of India will be able, without the assistance of the Secretary of State, to obtain suitable British recruits in the numbers required.

209. **Safeguards and conditions of service.**—It is common ground that whatever may be the decision as to future recruitment of the all-India services, the officers at present in these services should be encouraged to remain, and should retain all their existing rights, safeguards and prospects. Further, as we explain later in our observations on the Council of India, we recommend that changes in the statutory rules affecting the services should be made in consultation with a body which represents service experience. One important factor in the retention of the existing officers of the all-India services is undoubtedly the right of premature retirement. This right is at present possessed by all officers in these services, except the more recent recruits of Asiatic domicile. Generally speaking, under existing orders, the option to retire prematurely extends only for twelve months after the transfer of power proposed by the Commission has taken place. All local Governments agree with the Statutory Commission that the right of premature retirement should be continued, without limit of time, to any officer who might under the present rules have so retired on the coming into force of the new constitution. We have no doubt that the extension of this privilege is essential. If an irrevocable choice is presented at a particular moment, there is a serious risk that a large number of valuable officers would decide to retire. The experience of the past has demonstrated clearly that officers are more likely to remain while the option of retirement is kept open.

The Commission recommend that those, who are recruited after the introduction of the new constitution, should enjoy

the same rights, privileges and safeguards as members recruited before the change, except in respect of the right of premature retirement. They do not consider it is reasonable that those who enter the services with full knowledge of the conditions should be granted this right. In principle we accept this view, but, in agreement with more than one local Government, we regard the matter as one that will have to be decided in accordance with the practical considerations of fact. If satisfactory recruits can be obtained without the grant of this privilege, there is no reason why it should be granted. But we do not think it would be wise to run the risk of losing the recruits required for the all-India Services, merely on this point of principle. It does not follow that it would be necessary to extend to new recruits the precise scheme which is open to existing members of the services. We think that the suggestion made by the United Provinces Government that rights of retirement should be offered after fixed periods of service, the earliest of such periods being twelve years, might well be considered, should the necessity for making this concession arise.

210. **Security of pensions, family pensions and provident funds.**—The replies of local Governments indicate marked uneasiness among members of the all-India services in regard to their pensions, family pensions and provident funds. On these questions we endorse the recommendation* made by the Indian Statutory Commission. They point out that they are not proposing any change which would bring pensions into jeopardy, but, following the Lee Commission, they recommend that, if any statutory change is made hereafter involving the transfer of the financial control in this regard now exercised by the Secretary of State in Council, adequate provision should at the same time be made for safeguarding service pensions. We assume that their recommendation was intended to include family pensions and provident funds. This is a matter to which we attach great importance, and we trust that an assurance on this point will be given by His Majesty's Government, and that it may be found possible to restate with reference to present conditions, in terms as explicit as may be, the principles set forth in paragraph 4 of Mr. Montagu's despatch No. 5-Public, dated the 9th February 1922. In the meantime we are examining, in connection with various memorials received from members of the services, the question whether it is practicable to supplement this assurance by measures which will give a greater sense of security to the services, and we propose to address you separately on this subject at an early date.

*Volume II, para. 332.

211. **Other recommendations.**—We accept in principle the proposals of the Commission in regard to the establishment of provincial Public Service Commissions. There are certain other matters of less importance on which we shall address you separately.

RELATIONS WITH THE STATES.

212. **The federation of all-India a distant ideal.**—The relations which should obtain between British India and the Indian States raise difficult questions immediate and remote, both of which have been discussed* by the Commission. We readily accept the ideal of an ultimate federation of all-India, and agree with the Commission that the Indian States and the provinces of British India preserve remarkable cultural affinities, and are slowly working out a common destiny. We recognize the geographical, economic and political unity of British India and the States, but we share the repugnance of the Commission to pronounce dogmatic conclusions. The ideal which has received general acceptance, and which we also accept, is† "some sort of federal arrangement". Deep-seated difficulties arise from the heterogeneity of the units to be federally associated, and from the wide range of matters to be made subject to control from a common centre. The Commission remark that ultimate federation cannot follow any known pattern, and we doubt whether any advantage is to be derived from attempting now to sketch the ultimate form of future political association between British India and the States.

Federation might possibly be evolved on some such lines as have been followed in the Dominions or in federal countries elsewhere, but we refrain at this stage from following the Commission into an examination of the methods by which the end might be reached. The example of Canada has appealed to them, but the Commission go no further than to say that individual adhesion is a possible method of approach. We are ourselves by no means clear that adhesion to the legislature of British India holds out greater promise than the expansion and development of the Council for Greater India, and we hesitate to assume that the relations existing between the provinces of British India and the centre will not necessitate a permanent central legislature for British India, dealing with matters which are of concern to British India alone, and to which the States could not appropriately be admitted. We think that the way should be left open for the continued existence, if necessary, of the British India legislature for British India purposes, and for the possible creation of an

*Volume II, Part VII.

†Volume II, para. 228.

all-India legislature in which both the States and the provinces would be represented.

In short, the time has not yet come for a choice to be made. A federation of all-India is still a distant ideal, and the form which it will take cannot now be decided. The duty before us at this stage is to assist in arranging the preliminary setting and in removing obstacles from a still untrodden path. Without indulging in remote speculation, we think it more profitable and necessary to examine the concrete proposals which the Commission make for immediate action.

213. **Paramountcy.**—We have already intimated, in the course of our examination of the structure of the central executive, our acceptance of the Commission's suggestion that the exercise of paramountcy should no longer be a function of the Government of India. We propose now to discuss the suggestion in some detail.

At the outset we accept the important distinction made by the Statutory Commission between the exercise of paramountcy on the one hand and, on the other, the normal treatment of matters which are of common concern to the States and to British India. It is only in respect of the former that the Commission recommend that the Viceroy should be statutorily vested with the functions now exercised by the Government of India ; and the Princes themselves ask for nothing more. The object of the proposed transfer is not to change but to perpetuate the present location of responsibility with the agents of the Crown, and the need for it arises partly from the anticipated increase of the responsibility or responsiveness of the Governor General in Council to the British Indian legislature, and partly from the formulation of the ideal of a federated India. Whatever legal or constitutional arguments might be advanced to the contrary, it is in practice essential that the obligations of the Crown towards the Indian States should continue to be discharged through an agent whom the Crown is able fully to control. At the same time, as the Commission point out, it is in the last degree improbable that the States would ever assent to the idea of a federal association, whose democratically controlled executive could claim to exercise rights of paramountcy over themselves. Any invasions or limitations of the autonomy of the States must come not from the Government of British India, but from the representative of the British Crown, to whom alone the Princes admit allegiance.

We have anxiously considered whether the object as defined above could be achieved by any means less drastic than those advocated by the Indian States Committee and the Statutory Commission. Our opinion that there is no

satisfactory alternative is not entirely unanimous. One of us holds the view that the arrangement, under which the exercise of paramountcy is constitutionally vested in the Governor General in Council, should not be disturbed, except to the extent of providing that those members of the Governor General's Council, who may in future be responsible to the central legislature, should be specifically debarred from participation in the disposal of such business. In other words he considers that, in the event of the introduction of dyarchy into the central Government, all matters relating to paramountcy should be classified as 'reserved'. If, however, the central Government is to be unitary, subject to the reservation of overriding powers for the Governor General personally in certain matters, the exercise of paramountcy should, in his view, undoubtedly be a matter in which the Governor General should possess such powers subject only to the control of the Secretary of State. He further considers that, if his views as summarized above do not meet with acceptance by His Majesty's Government and if members of the Governor General's Council are to be relieved of all responsibility in regard to the functions of paramountcy, that responsibility should be vested in the Governor General rather than in the Viceroy. In urging this view (which for reasons explained below the remainder of us are unable to endorse) he is actuated by the fear that, if at some future date the offices of Viceroy and Governor General were to become distinct and to be held by two separate persons, baffling and undesirable complications might ensue. His general attitude towards the whole question is that the contemplated change involves a very drastic separation between British India and the States, which is calculated to render their eventual fusion more difficult than would otherwise be the case.

We realize that this latter view is held in considerably stronger form in other quarters also, and that there exists a suspicion that the vesting of the functions of paramountcy in the Viceroy must, and may even have been expressly designed to, hamper and delay the progress of India as a whole towards true autonomy. We doubt, however, whether this suspicion would be dispelled by the adoption of the compromise favoured by our colleague. The dyarchic arrangement which he contemplates would be at variance with our ideas as to the future constitution and functioning of the Governor General's Council, and could, at the best, be only a temporary makeshift which would avoid rather than solve the essential problem. The alternative proposal that the rights of the Princes should be safeguarded by the vesting of overriding powers in the Governor General is open to the objection

that it would afford the legislature a constitutional *locus standi* in a sphere which, as our colleague himself admits, ought to be reserved for Parliament and the Crown, and would create a position with wide possibilities of friction and misunderstanding. Finally, both alternatives would entirely fail to satisfy the Princes, whose hopes for the future are centred in the solution which we are advocating. We consider that that solution tends to unity rather than to dissidence. We regard it, in fact, as by no means inconceivable that the surrender of the functions of paramountcy to a democratically controlled Government of India would lead in no short space of time to open defiance of the latter, and perhaps even to hostilities. It may be argued that the Government of India is not yet democratically controlled, and that the change which we are advocating might well be postponed until that contingency has arisen. We would reply that we are satisfied that any such delay would be dangerous. The influence of the legislature upon the central Government is already sufficiently great to justify the misgivings which the States entertain. Nor is any one likely to argue that they are mistaken in anticipating that it will rapidly increase. So long as this constitutional question remains open it will be a focus of controversy and friction, and the postponement to some future time of a decision which we regard as inevitable will only increase the difficulty of its eventual application. If it is defended and enforced now on the grounds which we have described above, we trust that public opinion may be brought to realize that it is not so comprehensive or disturbing a measure as it has been represented in some quarters to be. In all matters, where British Indian interests are concerned, British India will, as at present, have full constitutional opportunities for expressing, and, with due regard to the rights of the States, enforcing her desires. And even in affairs internal to the States there will be nothing to prevent the Viceroy, if he so wishes, from obtaining the opinion of his Council in any matters which, by reason of their nature or intrinsic importance, seem to require scrutiny from the British Indian standpoint.

It will be observed that we have, in the foregoing observations, been at pains to use the term 'Viceroy' in preference to that of 'Governor General'. It is, in fact, our considered opinion that the Governor General should hereafter be appointed under the dual designation of Viceroy and Governor General, and that his functions in regard to the exercise of paramountcy should be statutorily vested in him under the former designation. The arguments on which this proposal is based, though in part sentimental, appear to us to be cogent. It is on the King

Emperor that the loyal sentiments of the Indian Princes are centred, and it is towards the Viceroy, as His Majesty's representative rather than as the Governor General of India, that they feel that respect and devotion which is so valuable a factor in our dealings with them.

214. **Matters of common concern.**—With regard to matters of common concern the Commission make three definite proposals, namely, that a list should be prepared of those matters which are of common concern to the States and to British India ; that there should be included in the preamble to any new Government of India Act a recital which would put on record the desire to develop that closer association between the Indian States and British India which is the motive force behind all discussions of an eventual federal union ; and that provision be made for the creation of a Council for Greater India for the purpose of joint consultation on matters of common concern included in the list.

We support these three suggestions, but make the following general observations. The list of matters of common concern is to include from the outset thirteen matters which cover a large portion of the range of the Government of India. Defence is a noticeable omission, presumably in accord with the Commission's recommendations to remove the administration of the army from the Government of India, and to constitute a committee on army affairs on which the States might be given representation. The list is to be included in a schedule to the Act and the matters included in it will require to be brought up for joint deliberation. The requirement of joint deliberation imposes a restriction upon the free action of the Government of India, but we take note that the list is to be made in consultation and by agreement.

We have no objection to a recital in the preamble which merely places on record a desire for closer co-operation in the future. But in the form given to the recital* in the report there is approval of the principle of joint deliberation on matters of common concern at the discretion of the States. We conceive that the form of the recital will be determined by the conclusions reached as to the nature and functions of the Council for Greater India. Representation on the Council may be regarded as participation in a mutual privilege, but the view may be taken that its creation imposes a constitutional limitation on the free action of the Government of British India. The implications of the recital proposed by the Commission are that while British India is given no discretion and must submit to discussion of its functions, so far

*Volume II, para. 236.

as they fall within the list of matters of common concern, for the States submission is optional. No Indian State need come within the scheme, unless it so desires.

215. **The Council for Greater India.**—The provision for the Council for Greater India is a statutory discretion in the Crown to create the Council for purposes of consultation. We have no particular comments to make on the suggested composition of the Council, or on the proportions proposed respectively for the representation of the States and of British India. We think it probable, however, that on practical grounds it might be necessary to increase its total membership to not less than 60, of whom about 20 might be representatives of the States. As to the scope of the functions of the Council, the power given to the Viceroy to certify from time to time such other matters as he may consider suitable for consideration by the Council introduces elasticity, but the demand might be made from the British India side that additions to the list should be made only by rule. We agree that the functions of the Council should be consultative only, but in some respects the consequential proposals* made by the Commission induce misgiving. Instead of reporting to the central legislature and to the Chamber of Princes, a more suitable arrangement might be that it should advise the Viceroy and Governor General. In the second place we are doubtful whether the Council should possess the administrative power of appointing committees of investigation and report. Lastly, since the Council is itself to be composed of mixed elements we are not entirely satisfied of the need of any provision for meetings of a joint committee drawn from the Council and from the central legislature.

These however are matters of detail susceptible of adjustment by discussion. In the meantime we repeat our general agreement with the Commission's suggestions. We regard them as a valuable contribution to current political thought on an exceedingly difficult problem, and we trust that they may attract support both from the Princes and from the representatives of British India at the Round Table Conference.

216. **Economic and financial relations.**—Before we leave the problem of relations with the States we take this opportunity to refer to developments outside the recommendations of the Commission. It is well known that for some years past the States have been claiming a share in the customs revenue of the Government of India. These claims were presented in

*Volume II, para. 237.

considerable detail before the Indian States Committee, which recommended that an expert committee should be appointed to enquire into the reasonable claims of the States, or groups of States, to a share in the customs revenue, as also into any reasonable claims under other heads, and at the same time investigate the adequacy of the contributions of the States to Imperial burdens. Subsequent to the publication of the report of the Indian States Committee, the claim of the States has developed into something wider and more comprehensive than a request for a share in the customs revenue of British India. They ask in effect for a survey of the whole field of their financial and economic relations with the Government of India.

In their report* the Indian States Committee rejected the contention of the Princes that the indirect taxation of their subjects by means of our customs tariff is *ultra vires* from the point of view of international law and partakes of the nature of a transit duty. Our own exhaustive examination of the claims put forward has failed to reveal any ground on which relief can be claimed as a matter of right, either under treaty obligations or from past practice ; and our broad conclusion has been that the question is but one aspect of the many-sided problem of the political evolution of India and of the future relations, especially the future financial relations, between the Government of India and the Indian States. We have, however, long been conscious that, from the point of view of equity, the operation of the customs tariff has provided the States, or at any rate some of the most important among them, with what they believe to be a grievance. There is the further consideration that for the reasons anticipated in Sir Walter Layton's scheme, the burdens imposed on the States through this indirect taxation of their subjects may become heavier in the near future.

217. **The need for a solution.**—Apart however from considerations of equity, there are now new arguments of even greater practical importance which in our view necessitate an early review of our financial relations with the Indian States. In the first place such a review seems to follow inevitably upon the proposal that the Viceroy and not the Governor General in Council should be the sole agent of the Crown for the exercise of paramountcy over the States. If this proposal is approved British India may maintain that its own legitimate revenues should not be called upon to defray the expenses of this new relationship. We anticipate therefore that it may become necessary to have a completely separate " political " budget directly financed, so far as may

*Para. 81.

be found possible, from the contributions of States and their subjects, which at present fall to British Indian revenues.

Secondly, though we are, as we have stated, in full agreement with that portion* of the Statutory Commission's report which recommends the creation of a Council for Greater India for the treatment, in a consultative capacity, of matters of all-India concern, we think that the consultations of such a Council would have much more reality and practical usefulness if the States had a definite financial interest in that portion of the agenda which relates to the indirect taxation of their subjects.

The third and most important consideration is that the natural and harmonious development of the financial and economic programme, suggested by the Statutory Commission for expanding the resources of British India, would be much more effectively pursued if the co-operation of the States could be assured. Sir Walter Layton has† expressed the opinion that, if his proposals are to succeed, "some means must be found of harmonizing financial policy in the two sections of the country".

218. **The possibilities of conflict.**—In our view the requirements of the future will demand such a harmony not only in the sphere of finance and taxation, but also in such matters as legislation affecting the conditions of industry. For example unless the co-operation of the States can be secured, there is a real danger that the absence of restrictive Factory Acts may attract industries to the Indian States to the detriment of British India. In the sphere of finance and taxation the need for uniformity of practice between British India and the States is becoming increasingly important. There is the obvious case of the income-tax, in regard to which a disparity of rates may lead to a removal of business from British India, a danger which becomes greater as the rates of income-tax increase. Again the development of ports in certain maritime States has raised questions, which concern not only our sea customs revenues but also the conflicting interests of traders in various parts of India. In so far as the customs revenues are concerned, we have taken such action as appeared to us necessary and justifiable for the protection of our interests, but such measures cannot fail to be attended by friction, controversy, and administrative inconvenience, and we should greatly prefer an agreed settlement, which would remove all obstacles to the natural and harmonious development of India's communications by sea and land. Lastly, if we are in future to develop our financial resources

*Volume II, para. 237. †Volume II, para. 315.

by resort to new all-India excises of the nature contemplated by Sir Walter Layton, the co-operation of the States will be essential. This need can be easily established by a single illustration. If the manufacture of matches were to be permitted without excise restrictions in State territory, the consumption of untaxed matches in British India on a very large scale would inevitably follow, and no system of customs barriers could be developed on a sufficiently wide scale at a sufficiently reasonable cost to prevent that consequence.

219. **An economic union.**—We have given this brief statement of an impending problem in order to indicate that, when discussion turns on ways and means to bring about an association between British India and the States, the matters at issue are not academic. Important practical considerations are involved. The financial and economic issues already raised between the two component parts of Greater India necessitate early solution. We do not claim to have formed decided views. The whole question must inevitably be considered at the Round Table Conference, when representatives of the States and of British India will have equal opportunities of expressing themselves. We can at this stage do little more than put forward certain principles which appear to us likely to govern the case.

In the first place, there can be no diminution by the Government of their right to levy and retain customs duties on all goods imported at British India ports, even though destined for consumption in Indian States. But the Government of India can in our opinion properly agree to review the position on equitable grounds, for the reason that the customs revenue and import duties have in recent years come to bear a substantially different significance to that which they bore when the original treaties and arrangements with the States were settled.

Secondly, if consent be given to take into account considerations of equity in a review of the customs situation, it should be counterbalanced by a simultaneous review of the position as regards the States' contribution to the cost of defence and of other Imperial services, which relieve the States of expenditure or contribute directly or indirectly to their benefit. Financial investigations would therefore cover the whole field of claims by the States against British India revenues, and counterbalancing claims by British India against the States.

When the accounts of both sides have been drawn up, some States may be found to have a credit balance ; others may be found to be making less than a proportionate contribution to Imperial burdens. For this reason, no financial

settlement should be made with individual States that does not have regard to the entire account. Each settlement must be an integral part of a general settlement between British India and the States as a whole. Further, before any financial settlement be entered into, the States concerned should bind themselves to the adoption of a policy uniform with British India, in regard to such matters as commercial and industrial legislation, the level of their excise duties, and the rate of their income-tax. The proceeds of such uniform taxation, including customs duties collected by maritime States at their ports, should be credited into a common pool with a view to its ultimate distribution on such equitable principle as may be agreed upon, and there should be full facilities for inspection by an all-India inspectorate staff, in the recruitment and control of which the States would have a share.

In no case would retrospective effect be given to any financial settlement or part thereof.

220. **A settlement by agreement.**—We set out these broad principles for general consideration. We recognize that controversial issues are raised, but the problem is pressing, and it is essential that such solution as may be reached should carry conviction on both sides, in the States and in British India, that the interests of neither have been ignored or sacrificed. It seems to us that the best occasion for reaching an agreement satisfying this condition will be afforded by the forthcoming Round Table Conference, and we recommend that every advantage should be taken of the opportunity. If there were to be complete agreement as regards principles, it would remain only in the case of each State to translate those principles into terms of a financial settlement. A second alternative, the possibility of which we do not exclude, would be an agreement between the representatives of the States on the one side and of British India on the other, that the whole question of the future financial and economic relations should be referred to an arbitral tribunal, whose decision would be accepted as binding on both parties.

THE HOME GOVERNMENT.

221. **The executive authority of the Secretary of State.**—In an earlier portion of this despatch we have described the constitutional importance attaching to the recommendation made by the Indian Statutory Commission that the members of the central Cabinet should be appointed by the Governor General. We have sought to show in what way such an arrangement will affect the relations of the executive with the legislature, and to suggest how the recommendations of the Indian Statutory Commission might be developed into a working partnership in administration in India. When

we proceed to consider more closely how a central Cabinet resting on such a basis should be related to authority in England, we think that the general tenor of the recommendations of the Indian Statutory Commission involves that the Secretary of State shall in future exercise over the Government of India only a power of superintendence, direction and control. We consider it of some importance to place beyond possibility of doubt a position which to some minds may appear obvious, for the "doctrine of agency" has at times been strongly pressed. In earlier years this doctrine encouraged a tendency to bring the Viceroy into the same relation to the Secretary of State as that in which an Ambassador or Minister at a foreign court stands to the Secretary of State for Foreign Affairs, and it was relied upon by Lord Morley in asserting for the Secretary of State the extreme power of giving direct orders to every officer in India from the Governor General to the humblest servant of Government in the districts.

In future, according to the recommendations of the Indian Statutory Commission, the power to appoint the members of his Cabinet, alike in provinces and at the centre, would rest with the head of the administration. This appears to involve that the Governor General and Governors would conduct the administration with advice from members of their Cabinets and under the control, greater or less, of the Crown. Provincial Cabinets would, save for the overriding powers of Governors, and a limited superintendence from the centre, be subject only to control by provincial legislatures. As regards the centre, "*the executive" say the Commission, "will to an increasing degree be responsive to the will of the federal representatives". Such an arrangement in our view would seem to preclude the retention by the Secretary of State of a primary power of administration devolved upon him from the Crown. The future constitutional position in the presence of executive Governments so constituted would naturally be that the administration would become vested in the Crown, and exercisable at the centre by the Governor General and in provinces by the Governor, but subject to such superintendence and control on behalf of the Crown as might in each case be found appropriate. The scope of the authority of the Secretary of State would then be two-fold. First, he would be the adviser of the Crown, or, if devolution were made to him, the first executive authority for matters removed from the jurisdiction of the Government of India. For instance, the original authority for the making of treaties, the exercise of

*Volume II, para. 179.

paramountcy, the contraction of loans of particular kinds, and the recruitment of certain services might vest in the Secretary of State. But his duties of this nature would be limited to the particular matters, specifically removed from the general devolution of authority from the Crown to the Governor General or the Governor. Second, the Secretary of State would exercise powers of superintendence, direction and control over heads of administrations, corresponding to the obligations laid upon them.

222. **The Secretary of State's powers of superintendence, direction and control.**—We have already explained how our conviction of the necessity for a partnership between Britain and India has led us to the conclusion that Parliament should consent to specify the purposes for which alone it will assert its authority in the administration of India. We are accordingly unable to accept what we take to be implicit in the *recommendations of the Indian Statutory Commission, namely, that the Governor General in Council must in terms continue to be subject to the undefined control of the Secretary of State, but that in practice the intervention of the Secretary of State should depend very largely upon the attitude of Parliament. In regard to provincial administration we agree that †" it should no longer be open to the Secretary of State to issue orders on matters which are of no concern outside the province itself, other than the limited class in regard to which special powers are reserved to the Governor ". We agree also that at the centre the personal powers of the Governor General should be placed under the unrestricted control of the Crown. But it is implicit in our recommendation for a specification of the purposes of Parliament that both the Governor General's special powers, and also the Secretary of State's powers of superintendence, direction and control, should have no other extension than these purposes.

223. **The power of appropriation.**—The disposition of executive authority, which we have just suggested, has its natural parallel in the field of finance. It implies a corresponding disposition of powers of appropriation. At present the revenues of India vest in the Crown. In theory all appropriation is subject to the control of the Secretary of State in Council and requires the concurrence of the Council of India. But rule and practice have brought about a wide departure from the theoretical position. In regard to voted expenditure the power of appropriation has passed to the legislatures in India and to the Governors and the Governor

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*Volume II, para. 351. †Volume II, para. 350.

General, and in regard to non-voted expenditure is exercised by the Governments in India. Provincial Governments, in consequence of the devolution of authority and the allocation of revenues made to them, do not require the previous sanction of the Secretary of State or of the Council of India before approaching their legislative councils for voted supply, or appropriating moneys for non-voted expenditure. The Government of India, however, are required to submit their annual proposals for appropriation for the previous sanction of the Secretary of State and the Council of India, receiving for non-voted expenditure authority to make the necessary appropriation, and for voted expenditure what is, in effect, permission to obtain what supply they can from the Assembly. This position we regard as administratively neither necessary nor convenient. If the Governor General is to be made by statute primarily responsible for His Majesty's Government in India with advice from members of a Cabinet which he will himself select, the power of appropriation should in the first instance and by statute lie with him and his legislature. This necessity will be the more apparent if Parliament accept the propriety and wisdom of defining the purposes for which it will control the Government of India. For if the interest of the Secretary of State is limited to the fulfilment of these purposes, it would seem unnecessary that he should concern himself with the details of the Indian budget, or that the whole annual scheme of Indian finance should be subjected to close and meticulous control.

224. **Method of specification of the powers of the Secretary of State.**—We have already described in this despatch certain purposes which Parliament will be interested to secure. It is not possible in the circumstances in which this despatch is written to explore the whole field. The formulation of precise and exhaustive prescriptions is a matter to be undertaken at greater leisure. But our conception of partnership demands that Parliamentary purposes should be capable of definition. Our argument would, therefore, be incomplete if we did not show that, as we consider desirable, specification of the functions of the Secretary of State is likely to prove feasible, and if we gave no indication of lines on which it might proceed. We gather that the Indian Statutory Commission, although like ourselves they were unable to pursue a detailed enquiry, regarded it as not impossible that such a definition should be made. For they make the following remarks : *" It may be that fields of administration can be mapped out, in which it can be said

* Volume II, para. 352.

with confidence that no question will arise upon which His Majesty's Government would feel bound to reserve to itself the final decision, notwithstanding the agreement of the Government of India and the Indian legislature. We cannot ourselves suggest one and are, therefore, unable to recommend any extension of the principles of the 'fiscal convention' ''. We ourselves approach the problem from a somewhat different angle, having regard rather to general purposes, which must be secured by Parliament in whatever field of administration they arise, than to particular subjects which can be made immune from or liable to Parliamentary intervention. But we recognize that a demarcation which seeks to give to Indian administration the fullest reasonable degree of freedom from external control, must, even if it starts from broad principles, descend to the consideration of particular functions. The distinction will be perhaps more clear if we consider the methods by which the necessary specification could be made. Three methods have suggested themselves to us, namely positive enactment, statutory rules, and some form of declaration, possibly made by the Secretary of State and accepted by Parliament. The method of positive enactment appears to us to be unsuitable, because our aim is to define the purposes of intervention in such a way that they may be capable of changing as circumstances permit in the direction of greater freedom in the Government of India. The method of declaration may be appropriate for purposes of illustration, and in order to set forth the spirit which will animate the operation of formal provisions. But we would not expect it by itself to prove sufficient, for the differentiation which we seek must, we anticipate, be placed ultimately on a statutory basis, if Indian opinion is to have adequate assurance. Such a basis might, as in the past, be found in statutory rules. We do not contemplate that these rules would effect a tripartite classification of subjects, adding to the existing classification of functions as central and provincial a third category of Parliamentary subjects. The existing classification proceeds from the assumption that all functions of government, with certain exceptions, are exercised by authorities in India, and arranges these functions in central and provincial compartments. What we would seek to do is, while respecting that almost exhaustive allocation of functions to authority in India, to define the objects for which Parliamentary intervention in central administration may be practised, whatever function of government may be concerned. It would seem to follow that an appropriate method of specification would be to draw the statutory rules in a broad and general form with reference to the purposes of intervention, and if it were found necessary to bring them into close relation to the classified functions of

government to amplify the rules by some subsidiary declaration, illustrating or it might be limiting the application of the several rules to the several functions.

225. **Statutory rules.**—A precedent for what we seek may be found in the existing rules under section 19A of the Government of India Act, relaxing the powers of the Secretary of State to control the administration of transferred subjects in provinces. These rules are broad definitions of certain purposes of control, and, so far as we are aware, their translation into detailed practice has been attended with little difficulty. In the central field, however, which we are now considering, the purposes to be secured are more important and more pervasive of the administration. We have given such consideration as time permitted to an exploration of the ground to be covered, and in the portions of this despatch dealing with central finance and with commerce we have explained in some detail the views which we entertain. We are not, however, in a position to draft the rules which we would regard as suitable. We can at present do no more than suggest categories of interests in the hope that our object at this stage, namely, to show that specification is likely to prove feasible, will be thereby attained. To that end, and with a desire to assist the fuller investigation which we recommend, we suggest the following :—

(1) the administration of subjects entrusted to the Secretary of State ;

(2) the defence of India against external aggression ;

(3) Imperial interests including foreign affairs ;

(4) questions arising between India and other parts of the British Empire ;

(5) international obligations, or any obligation arising from an arrangement within the Empire, to which India is a party, or which is otherwise binding upon India ;

(6) the conditions of internal security ;

(7) the financial stability and credit of India, and the fulfilment of existing obligations ;

(8) the protection of minorities ;

(9) the avoidance of unfair economic and commercial discrimination ;

(10) the rights of services recruited by the Secretary of State ;

(11) the maintenance of the constitution.

226. **Interpretation of the rules.**—What degree of elaboration the necessary rules would require in order to cor-

relate them to particular subjects would to some extent depend on the assurances which particular interests such as minorities and established commerce and industry might reasonably require, and on the extent to which in practice it might be found desirable to have a more detailed exposition of Parliamentary control. We ourselves would prefer that just as the rules under section 19A were in provinces translated into administrative practice without difficulty, so the broad rules we propose for the centre should be left to their natural operation without any formal elaboration. But if such elaboration were found necessary, for instance, in the fields of finance and of commerce, we think that a method of description and illustration would be appropriate. We would deprecate anything of the nature of codification, for it would in our view be unfortunate if any document in elaboration of the rules came to be looked upon as a digest of powers which ordinarily must be exercised. The road to discontinuance of control is best laid open by stopping short at rules broadly expressed, and by giving to any subsidiary definition, should such be necessary, a permissive form.

227. **The Council of India as an independent authority.—Its financial veto.**—If we have succeeded in establishing the true constitutional position that authority of administration and appropriation may be directly devolved upon the Governor General, and that the Secretary of State would then occupy a position from which he may exercise specified control, it remains to enquire whether there is room for a third statutory independent authority. There is a strong body of opinion in India which regards the Council of India as superfluous, or even as an obstacle to political advance. Those who hold these views might fairly maintain that the principles on which our proposals are based preclude the retention of the Council. For, they would argue, where Parliamentary purposes were involved the Council of India would be out of place, and where they were not involved, it would not be necessary, since the Indian legislature would be in a position to protect itself.

The functions of the Council fall into two classes. It tenders advice to the Secretary of State. In certain matters *it grants or withholds assent* without which action cannot be *taken. We shall deal presently* with the Council of India as *an advisory body. For the moment* we are concerned with *its position as an authority* independent of Parliament and the *Government of India*, exercising a veto over expenditure and over variations in conditions of service. We agree with the Indian Statutory Commission in considering the financial veto of the Council to be of moment only in regard to non-

votable expenditure, and for the protection of the interests of India against claims by departments of the Home Government. We, therefore, see no justification for the retention of the veto in regard to financial proposals emanating from the Government of India, and would not favour its continuance except for use on occasions when Parliament proposes to intervene in Indian administration. There is force in the observation of the Statutory Commission that, if military expenditure were determined by agreement at a fixed sum, there would be little advantage in retaining the veto. We have elsewhere proposed that supply for defence should be fixed and determined at intervals by a special procedure. If that course were adopted, there might be little necessity for retaining the veto of Council. But whatever the decision may be regarding appropriations for defence, we would prefer that the principle of arbitration should be established, and that differences between His Majesty's Government and the Government of India in regard to non-votable expenditure should be settled by negotiation and, if necessary, by adjudication. We are, therefore, inclined to the view that the future constitution would leave little room for the Council of India as an independent authority with power over appropriations, and we anticipate that any such differences of opinion as might arise between the two Governments could be settled in a manner more consonant with the freedom, which the Government of India may suitably enjoy.

228. **The same.—Its control of service conditions.**—The second function of the Council of India as an independent authority is its control over the rules governing the services in India. In this regard we observe, first, that according to the proposals of the Commission the scope of this function will in future be much restricted. In the second place the concern of the Council of India is with rules altering conditions of service, and not with the application of these rules to individual cases. Nevertheless, the protection which the functions assigned to the Council of India have afforded in the past has been highly valued by the services, and the maintenance of some protection of this kind may considerably affect the flow of recruitment and the peace of mind of those still in service in India. We consider that the Secretary of State will continue to require advice in regard to the services and that that advice must be of a kind which will command service confidence. We do not, however, feel convinced that protection must be given by the existing methods or that merely in the interests of a comparatively small number of services the Council of India should be retained as an authority competent to withstand the wishes of the Government of India

and of His Majesty's Government. We would prefer a method whereby the Secretary of State in these matters was statutorily required to consult a body containing those who had recent experience of service conditions in India and recognized a convention that their advice would not ordinarily be disregarded. For these reasons, if the alternative suggestions which we have made prove to be capable of adoption, we are prepared to see the disappearance of the Council as a body independent of Parliament and the legislatures in India.

229. **The Council as an advisory body.**—As an advisory body the Council of India has appeared to many observers to be somewhat ineffective, and to others to encourage a tendency to do over again at Whitehall work which has been done in India in closer relations to actual conditions. The Secretary of State is under no obligation to convene the Council oftener than once a month, to attend its meetings or to accept its advice, and it is generally believed that successive Secretaries of State have in very unequal degree availed themselves of the assistance which the Council is able to afford. If, as we hope, Parliament is prepared to specify the purposes of its intervention, the Secretary of State will require advice in a more limited range of subjects than in the past, and it is possible that the advice which he would require will not always imply the need for Indian experience. He will continue to stand in need of advice in military matters. Equally important is the advice which he should receive in regard to finance. We have already indicated that on service matters he should have recent experience of service conditions in India upon which he would call. We are not, however, convinced that the need for advice will justify statutory provision for a corporate body of advisers, and we would indeed be inclined to think that the financial advice should be obtained from a special committee smaller than the Council, and composed exclusively of persons in close contact with the practical finance of the day. But the method by which the Secretary of State may obtain advice is not a matter with which we are primarily concerned, and we would here only stress the necessity that he should have suitable expert advisers in regard to services, finance, and military problems, and that their experience, when it is Indian, should be recent.

GENERAL RESULTS.

230. **British India a political entity.**—So much by way of detailed criticism and recommendation the time at our disposal has permitted and our duty has seemed to us to require. In another portion of this despatch we have set out the principles which in our view should govern advance. We

have accepted the principles of a growing constitution and of an ultimate federation of all-India, and we have in various places described our proposals for a partnership between India and Great Britain in the administration of British India. Observing scrupulously the pronouncements which have in the past been made on behalf of Parliament in regard to the nature and pace of reform, and endeavouring to appreciate and pay due respect to Indian desires, we have nevertheless adopted no rigid mould into which the new constitution of India should be forced. At the outset we described the demand of Indian public opinion in relation to the announcement made by His Excellency the Viceroy and Governor General on the 31st October 1929 declaring the attainment of dominion status to be "the natural issue of India's constitutional progress", and recorded our opinion that the broadest reasons of Imperial policy rendered it imperative to spare no efforts, and even to take some risks, in order to arrive at a constitutional solution which might carry the substantial assent of reasonable Indian thought.

The recommendations of the Indian Statutory Commission as to the provincial constitutions, with which in general we agree, represent a generous response to the popular demand for provincial autonomy. They contain within themselves the means of increasing adaptation to local circumstances, and to the wishes of those who will be charged with the task of working the constitution that the Commission have outlined. Our proposals, for the centre, in amplification of the plan put forward by the Commission, have been designed with a double purpose. On the one hand we have sought to examine the means by which the relations between executive and legislature can be established on a basis which offers a reasonable chance of harmony in working. On the other we have endeavoured to point the way to action that may now be taken to place upon the constitution the first, but definite, impress of dominion status. If we read history aright, it is exactly in this way that each and all of the Dominions have attained to constitutional nationhood.

Accepting the recommendations of the Commission that the members of the central Cabinet should be appointed by the Governor General, we have drawn what appeared to us the consequential inference that the exercise of the functions for the Government of India, which reside in the Crown, should be directly devolved upon the Governor General, and that therewith should go the power to appropriate the revenues of India. We think it right to state clearly that if this were done the Government of India would no longer merely be the agent of the Secretary of State. For the first time it would possess a distinct individuality. It would, it is true,

be within specified limits under the control of His Majesty's Government, but it is of the essence of our proposals that that control should be of such a nature as to establish partnership in place of subordination. The Government of India would then be a distinct entity, capable of acting in domestic matters on its own initiative and, within the ambit of its uncontrolled powers, free to pursue its own policy. *Vis-à-vis* the Dominions and foreign countries, it would occupy the new position which growing freedom in the conduct of external affairs would connote. That it would not be an entirely independent Government is due to circumstances, internal and external to India, which are generally familiar and which invest the problem with such peculiar difficulty. But while we are bound to suggest means by which provision can be made for the period of transition which must elapse before the complete fulfilment of British purpose, as declared in the announcements made on behalf of His Majesty's Government, we would set no artificial or statutory barrier to the natural evolution we desire to see. We believe that the greater part of Indian opinion will be ready to recognize the special interests of Parliament, provided that Great Britain on her side is prepared by action to show that she does not falter in her desire to invest India with the constitutional status that she seeks, and that her political development appears to us to justify. We would accordingly hope that if our suggestions are placed at the disposal of the Conference, they may be of some assistance to those on whom will rest a heavy responsibility, and the result of whose labours all who can measure the issues that are involved will anxiously await.

We have the honour to be,

SIR,

Your most obedient, humble servants,

(Sd.) IRWIN.
„ W. R. BIRDWOOD.
„ G. RAINY.
„ J. CRERAR.
„ GEORGE SCHUSTER.
„ B. L. MITTER.
„ FAZL-I-HUSAIN.
„ J. W. BHORE.

APPENDIX I.

NOTE BY THE CENTRAL BOARD OF REVENUE ON CUSTOMS (*vide* PARA. 251 OF VOL. II OF THE REPORT OF THE INDIAN STATUTORY COMMISSION).

Revenue Prospects (Customs).

Paragraph 251 of Volume II of the report purports to deal with central revenues in general, but, apart from a passing reference to growing income-tax receipts, Sir Walter Layton's discussion is confined to the customs revenue. In this paragraph he makes no definite estimate of its future growth, but in paragraph 289 (page 252) he estimates an annual expansion of ¾ crore, on the assumption that Burma will be separated, and that import duty at existing rates will be charged on imports from Burma. We propose to discuss paragraph 251, first of all, without reference to the effect of separation.

2. Sir Walter Layton begins by referring to the effect of monsoon failures on the revenue. He then refers to certain projects which should have a stimulating effect. He quotes certain figures exemplifying recent growth of trade, and deduces that expansion will be more rapid in the future. He sounds a note of warning as regards the existing tariff which he thinks may be above the point of "diminishing returns" on some articles, and refers finally to the depressing effect of high protective tariffs on the revenue. We propose to consider :—

(*i*) How far the figures which Sir Walter Layton quotes are reliable.

(*ii*) How far the conclusions which he draws from these figures and from other considerations are justified.

(*iii*) To what items we can reasonably look for expansion, and to what extent.

(*iv*) What factors are likely to interfere with normal growth.

We propose to deal with the advisability of reducing some of our rates of duty in a separate note.

3. The only figures Sir Walter Layton has quoted in support of his views are those at the foot of page 221, which are taken from the Review of the Trade of India for 1928-29 published by the Director

General of Commercial Intelligence. The table from which he quotes is the following :—

(In crores of Rupees.)

	1913-14.	1920-21.	1921-22.	1922-23.	1923-24.	1924-25.	1925-26.	1926-27.	1927-28.	1928-29.
Imports ..	183	142	124	138	120	137	143	156	181	190
Exports ..	244	172	182	214	240	250	246	228	248	260
Total trade in merchandise, excluding re-exports.	427	314	306	352	360	387	389	384	429	450

In this table the value of imports (and exports) for each year is expressed on the basis of the declared values for goods under the same head for 1913-14, so that the table compares the volume of trade instead of its total value. It would be a very laborious task to attempt to check all the Director General's figures, which only purport to be rough approximations, but we have worked out, independently, estimates for the 1923-24 and 1928-29 imports based on 1913-14 prices. The method we have adopted is to divide the Trade Returns into two sets of heads :

(*a*) Those for which quantities are recorded for all three years 1913-14, 1923-24, and 1928-29 ;

(*b*) Others.

We have calculated values on the 1913-14 basis for each important head under (*a*) for each of the years 1923-24, and 1928-29, and have then compared the resultant totals for (*a*) with the actual recorded values and reduced the actual totals under (*b*) in the same ratio.

4. The following table compares the results of our calculations with the Director General's figures :—

		1913-14.	1923-24.	1928-29.
		Crores.	Crores.	Crores.
Actuals	(*a*)	128	158	164
	(*b*)	55	70	89
	Total ..	183	228	253
Results on 1913-14 basis	(*a*)	128	84	117
	(*b*)	55	38	64
	Total ..	183	122	181
Director General's results on 1913-14 basis ..		183	120	190

These results, reached independently and possibly by different methods, are in sufficiently close agreement to justify reliance on the Director General's figures to the extent that we may assume (*a*) that the volume of trade has increased since 1923-24 by about 50 per cent. to approximately pre-war level, (*b*) that the rise in these six years was continuous, and (*c*) that it was most rapid between 1926-27, and 1927-28.

5. The existing projects which Sir Walter Layton considers will provide an additional stimulus to the import trade are, (*a*) irrigation schemes, (*b*) railway extensions, (*c*) road improvements and extensions, and (*d*) construction of harbours. In the present state of world-markets, with almost universal over-production of agricultural products and very low prices, it seems doubtful whether the bringing of additional areas under cultivation is likely to make for any great improvement in the import trade. The value of India's exports of "Grain, pulse, and flour" has fallen from 65 crores in 1924-25 to 34 crores in 1928-29. In fact if we take *nett* values (*i.e.*, after deducting the value of imported grain) there was a difference of no less than 41 crores. With this difficulty in marketing it seems highly unlikely that increased production of grain in India will stimulate imports. The demand for Indian cotton or oil-seeds has shown no tendency to increase in recent years, and everything seems to point to a long series of lean years for countries whose exports are mainly agricultural.

6. We understand that the present railway programme is normal. That is to say that it must be treated as one of the ordinary factors in the growth of trade, and not likely to be any more effective in the next ten years than in the past ten. It does not constitute a reason for anticipating a more rapid growth than in the immediate past. Road improvements and extensions will necessarily have a direct effect on our revenue from cars, tyres, and petrol, but improved internal transport facilities can do little to stimulate trade so long as the external demand for agricultural products remains weak. The construction of new harbours should have a slightly stimulating effect, but it must not be forgotten that they will very largely be sharing in the trade of existing harbours at the outset.

7. We now turn to the inferences to be drawn from the figures which Sir Walter Layton has quoted from the Review of the Trade of India (paragraph 4 above). He assumes without further investigation that the volume of trade will continue to grow, and ignores certain very important considerations. The first of these is that it is only the revenue from specific duties which is directly proportional to the volume of trade. For *ad valorem* duties we have to look to the value and not to the volume. We have also to remember that our import trade includes a large proportion of duty-free goods. We proceed to examine our import revenue in more detail, and for this purpose we propose to omit—

(*a*) Salt,

(*b*) Government Stores,

(*c*) Kerosene and Petrol.

Our reasons for excluding kerosene and petrol are that it is useless to consider the import, and excise duties separately. We shall, therefore, deal with them together in a later paragraph.

8. In the following table we show how our revenue was derived in 1923-24, and 1929-30.

	1923-24. Lakhs.	*1929-30.* Lakhs.
Duty on Government stores	55	57
Duty on kerosene and petrol	114	181
Specific duties (revenue)	783	1,422
Specific duties (protective)	247	241
Ad valorem duties	*1,979*	*2,194*
Total import duties (excluding salt) ..	*3,178*	*4,092*

It is instructive to compare this table with the following table which shows the values under the various groups :—

	1923-24. Lakhs.	*1929-30.* Lakhs.
Government stores	957	891
Kerosene and petrol	442	618
Goods liable to specific duties	3,684	4,012
Free goods	2,829	3,439
Goods liable to *ad valorem* duties	*15,696*	*15,877*
Total	23,608	24,837

9. The increase of 639 lakhs in specific duties (revenue) is undoubtedly due almost entirely to the fall in prices. Sugar alone has contributed 537 lakhs towards this figure, tobacco is responsible for a further 60 lakhs, and liquor for 28 lakhs. Sugar has reached a very low price-level and has recently been subjected to an additional duty. A substantial portion of the increase under tobacco is due to the raising of the rate on unmanufactured tobacco. At the old rate the 1929-30 revenue would have been 35 lakhs less. Prices have fallen considerably and are not likely to fall much more, so that we cannot look for much additional revenue under this head. In any case the tobacco revenue will have to be considered in conjunction with the tobacco excise, if introduced. There has been no steady rise in the liquor duties. The following are the figures for the last eight years :—

	Lakhs.
1922-23	235
1923-24	226
1924-25	250
1925-26	254
1926-27	261
1927-28	256
1928-29	252
1929-30	254

The additional indirect taxation on liquors imposed by the provinces has served and will continue to serve to prevent any substantial increase under this head. It cannot, therefore, be said that recent figures suggest any substantial improvement in our revenue from specific duties. The newer specific protective duties will no doubt secure additional revenue at first, but eventually they are bound to lead to a reduction, if the protection achieves its aim.

10. It is very significant to note that, although *ad valorem* duties have increased by nearly 12 per cent., the value of the goods on which they are assessed has only risen by a little more than one per cent. This reflects the reduction in the trades in cotton yarn and piece-goods on which rates of duty were low, and a corresponding increase in other trades, particularly motor vehicles. Nearly half the increase in the revenue from *ad valorem* duties is accounted for by the trade in motor vehicles and accessories. We shall revert to this point later. We will merely emphasize here that in 1929-30, apart from motor-vehicles and tyres, India has actually spent less on imported goods assessed *ad valorem* than in 1923-24. The small increase in the revenue is due to the change in distribution among commodities, a tendency which is not likely to develop much further. The figures, therefore, give no ground for anticipating a steady increase in the future.

11. It seems to us that in order to make any forecast for the future, on the basis of past experience, what we have to look to is the amount of wealth that has been available for the purchase of imported commodities, that is to say the total duty-paid value of imported goods. In the following table are displayed figures for ten years which we consider highly significant. They include all merchandise except Government stores and treasure.

	Value crores.	Duty crores.	Total crores.
1920-21 ..	333	23	356
1921-22 ..	265	28	293
1922-23 ..	231	34	265
1923-24 ..	227	32	259
1924-25 ..	245	38	283
1925-26 ..	226	38	264
1926-27 ..	230	39	269
1927-28 ..	248	39	287
1928-29 ..	252	41	293
1929-30 ..	239	41	280

It cannot be said that these figures contain any evidence of a steady rise in purchasing power. Nor do the figures for our export trade furnish any very great encouragement. For the last seven years the volume of the export trade has remained at about pre-war level (see table in paragraph 3), and the total value of exports has fallen from 349 crores in 1923-24, and 385 in 1924-25 to 330 in 1928-29, and 311 in 1929-30.

12. We have examined the returns carefully to see if there are any trades, particularly trades of recent growth, which hold out promise of continued and specially rapid increase. Our revenue from cinematograph films is still only 5 lakhs annually and its growth has been retarded by the increasing proportion of films made in India. The only promising trade of any magnitude is the trade in motor vehicles, accessories, and fuel. Our revenue from these trades is displayed in the following statement :—

(In lakhs of Rupees.)

	1923-24.	1924-25.	1925-26.	1926-27.	1927-28.	1928-29.	1929-30.
	Rs.	Rs.	Rs.	Rs.	Rs.	Rs.	Rs.
Motor* vehicles ..	78	85	118	123	112†	135	131
Tyres	29	28	46	39	30‡	33	37
Petrol (excise) ..	65	79	77	96	121	155	282
Petrol (customs) ..	..	..	..	..	..	..	16
Total (motor trades)	172	192	241	258	263	323	466
Less one-third of petrol duties credited to the road-fund	..	..	..	..	..	..	99
Net ..	..	..	..	..	..	..	367

13. Changes in the rates of duty, falling prices, and the erection of assembly plants in Bombay tend to disguise the real growth of the trades. The figures for tyres, moreover, are affected by the much greater durability of tyres produced during the past three or four years. The consumption of petrol is the fairest indication of the growth of these trades. The rate of duty was lowered from six annas to four annas from 1925-26, and again raised to six annas from 1929-30. At the four anna rate the revenue from petrol would have been—

	Lakhs.	Percentage increase.
1923-24	44	..
1924-25	53	20
1925-26	77	45
1926-27	96	25
1927-28	121	26
1928-29	155	28
1929-30	199	28

* These figures are approximate. The Revenue Returns do not separate motor vehicles and accessories assessable at 15% from other vehicles and accessories similarly assessed. The Trade Returns, on the other hand, lump together all motor accessories whether assessed at 15% or at 20%.

† Duty reduced from 30 to 20%.

‡ Duty on pneumatic tyres reduced to 15%. Previous figures for pneumatic tyres only.

These figures suggest an increase of 28 per cent. in the petrol revenue annually.

14. If we take the 1929-30 nett petrol revenue at 2 crores, the figures for the next ten years at this rate of increase would be—

	Lakhs.
1930-31	256
1931-32	328
1932-33	418
1933-34	534
1934-35	680
1935-36	858
1936-37	1,080
1937-38	1,382
1938-39	1,770
1939-40	2,260
i.e., plus	2,060

with half these amounts accruing annually to the road fund. This estimate is undoubtedly much too high ; we, therefore, give below an estimate based on an annual increase of 15 per cent. It is, we suggest, reasonable to take a percentage increase each year rather than a fixed amount, since the expenditure on roads will grow with the nett revenue.

	Lakhs.
1930-31	230
1931-32	274
1932-33	305
1933-34	347
1934-35	398
1935-36	458
1936-37	529
1937-38	605
1938-39	695
1939-40	800
i.e., plus	600

15. Cars are imported partly in replacement of cars scrapped. If we assume that the proportion of vehicles imported to those scrapped is constant, the number imported in any year should be roughly proportional to the *increase* in the petrol consumption, which again is assumed to be proportional to the consumption in the previous year. Tyre consumption should also be roughly proportional to petrol consumption, so that by 1939-40 we should be getting four times (131 + 37) lakhs, *i.e.*, an additional 504 lakhs which with the 600 lakhs on

petrol give a total of 1,104 lakhs. Sir Walter Layton credits Burman consumption with 25|215ths of the present petrol excise. Applying this figure, which appears reasonable, to the total that has been arrived at above, we obtain for India, excluding Burma, an increase of 976 lakhs.

16. The above estimate is based on the very arbitrary assumption that we shall have an average annual increase of 15 per cent. in the petrol consumption. We have suggested reasons why a percentage increase is more likely than a fixed increase, but we may compare our result with that of an annual fixed increase of 44 lakhs which represents the difference (at 4 annas a gallon) between the 1928-29, and 1929-30 receipts. This would give us in ten years an additional revenue of 440 lakhs from petrol. A similar increase of 220 per cent. on cars and tyres would give us an additional 370 lakhs, *i.e.*, a total of 810 of which the share of India (excluding Burma) would be 716 lakhs.

17. We have still to consider the kerosene duties. The following table shows the revenue for the past seven years :—

	1923-24.	1924-25.	1925-26.	1926-27.	1927-28.	1928-29.	1929-30.
	Rs.	Rs.	Rs.	Rs.	Rs.	Rs.	Rs.
Customs	102	114	127	102	149	163	164
Excise	95	98	98	105	97	92	98
Total ..	197	212	225	207	246	255	262

There has been an annual increase of approximately 11 lakhs, almost all derived from customs revenue. This is equivalent to an increase in annual consumption of 7 million gallons or, say, 6.2 millions in British India alone. The increase in consumption in British India between 1913-14, and 1928-29 was 51 million gallons, an average of 3.4 millions annually. A fair estimate for the future would be 5 million gallons per annum, and if it is decided eventually to equalize the excise and customs rates of duty (say at 2 annas per gallon) we may take 10 million annas, *i.e.*, 6¾ lakhs, as the average increase for the next ten years, *i.e.*, about 62 lakhs increase by 1939-40.

18. To summarize, we suggest the following as likely increases in customs revenue, including the two excises which are classified as customs revenue :—

	Crores.
From kerosene	0.6
From motor and allied trades (including petrol)	9.8
From other sources	*nil.*
Total ..	10.4

If the assumption made in paragraph 16 is given preference over that in paragraph 15, the estimate will be reduced to 7.8 crores.

19. There remain to be considered the effects of extraneous influences on the revenue. The most important of these are—

(*a*) Scanty rainfall,

(*b*) Decreased purchasing power resulting from other forms of taxation,

(*c*) Political unrest.

The motor and allied trades are among those least likely to suffer from any of these influences, and we believe our estimate to be cautious enough to provide for risks under the first two heads. The third head must necessarily remain an unknown quantity. Our estimate for kerosene also errs on the cautious side and may, we think, be accepted as allowing for set-backs. Similarly, we shall not be unduly timid if we assume no decrease under the customs revenues. Serious political disturbances may, of course, completely upset these calculations, but they should not do so unless they are so serious as to alter radically the system of government for which these financial arrangements are intended to provide.

APPENDIX II.

EXTRACT FROM A NOTE BY THE SENIOR MEMBER OF THE CENTRAL BOARD OF REVENUE ON THE LOWERING OF THE TAXABLE MINIMUM, AND STEEPENING THE GRADATION OF INCOME-TAX.

* * * * * *

4. *Lowering of taxable minimum.*—(*Paragraph 267*). Sir Walter Layton suggests that the exemption limits both for income-tax and super-tax (Rs. 2,000 and Rs. 60,000, respectively) are too high and should be lowered, but has made no specific recommendation. The exemption limit for income-tax was raised to Rs. 500 in 1886, to Rs. 1,000 in 1903, and Rs. 2,000 in 1919. I do not suppose that anybody would propose that the limit should be placed lower than Rs. 1,000. If it were proposed to lower the exemption limit, it seems to me that it would be difficult to resist a demand, which has been made even under existing conditions, that allowances should be given for wives and children. As the Taxation Enquiry Committee observed, practically every taxpayer in India is married, whereas in England there is a large number of unmarried persons of both sexes who pay income-tax. With reference to Sir Walter Layton's suggestion that the exemption limit for income-tax in India is high, the absence of any allowance for wives or children or for earned income must not be overlooked. As a matter of fact, for a married man, even without children, the exemption limit in England (£225) is higher than the exemption limit in India. The exemption limit proposed in the draft Ceylon Ordinance, it is interesting to note, is Rs. 2,400, and it provides for a personal allowance of Rs. 2,000, an allowance of Rs. 1,000 each for wife and family (whatever the number of children), and an earned income allowance of 1/5th of the income, subject to a maximum allowance of Rs. 4,000. I presume that the economic conditions in Ceylon are not so very different from those in India, though probably the general standard of wealth is higher.

5. It is also worth mentioning that although the assessable limit in the case of a single person is somewhat higher in India than in England, the percentage taken as tax of the lower incomes in India, if I may rely on the tables at the end of the draft Ceylon Ordinance, which were prepared by an expert from Somerset House, is actually higher—and a great deal higher—in the case of earned incomes in India than in the United Kingdom, even if for the purposes of comparison unmarried persons in the United Kingdom are taken. The table shows the following percentages :—

	Income—all earned.	
	British India (all classes).	United Kingdom (single persons)
	Rs.	Rs.
Income Rs. 2,400	62.5	20
Income Rs. 2,500	65.16	28.33
Income Rs. 3,000	78.13	70

Even where the income is all unearned, the tax on an income of Rs. 2,400 for all classes of assessees other than companies and re-

gistered firms, is Rs. 62.5 in India against Rs. 60 for a single person in the United Kingdom.

6. The objections to introducing allowances for wives and children in India are obvious. As already stated, they would be admissible to the vast majority of individual tax-payers, and, therefore very costly. Great difficulties would arise in applying such a system to the Hindu undivided family. It would probably be necessary to give it a *higher* exemption limit. There would be much more room for fraud in connection with these allowances than in a country with a highly developed system of registration of marriages and births. To check such frauds, "inquisitorial investigations" into the domestic affairs of assessees would be necessary. These would cause much work and intense friction. It is highly desirable to restrict the body of disputable facts on which the Income-Tax Officer is required to pronounce a decision, but it would be quite unsafe in present circumstances—in a large number of cases—to admit an assessee's claim that he had a certain number of children without proof, or to accept evidence on such a point without verification. This is probably why in the Ceylon Draft Ordinance a flat allowance for a family irrespective of its size was proposed. That would of course get over the difficulty to some extent, but in a rather rough-and-ready manner.

7. *Steepening the gradation between Rs. 5,000 and Rs. 1,00,000*—(*Paragraph 267*). Sir Walter Layton says that there is considerable scope for the steepening of the progression of the rate of tax on incomes between Rs. 5,000 and Rs. 1,00,000. We criticized a similar proposal of the Taxation Enquiry Committee in our note, dated 25th December 1925. We there pointed out the objections to imposing additional taxation in the particular zone that the Committee's proposals affected, namely, that including incomes between 15,000 and 29,999, at all events unless simultaneously an allowance were introduced on account of earned income, since most earned incomes (salaries and professional incomes) fall in that zone, and incomes in that zone are mainly salaries or professional earnings.

8. At present the income-tax gradation stops at Rs. 39,999. All incomes of Rs. 40,000 and over pay the maximum rate ; at present one anna and 7 pies in the rupee. Sir Walter Layton apparently proposes both to steepen the present gradation from Rs. 5,000 to Rs. 40,000 and also to continue this rising scale of rates up to a lakh. The maximum rate of income-tax will thus be very much higher than at present and the present maximum will be reached somewhere below Rs. 40,000. Simultaneously, the super-tax limit is to be lowered to, say, Rs. 30,000 or even Rs. 40,000, but the rates of super-tax on incomes exceeding one lakh are not to be increased. There will, it seems to me, be difficulties about companies and firms. If the maximum rate of income-tax, whatever it may be, is imposed on all companies and firms, there will be a large increase in the number of refunds owing to the extension of the gradation. If the maximum rate is not so imposed, it would be necessary not only to give refunds in some cases, but also to make supplementary assessments in others, for example, on shareholders in companies, a most undesirable complication. On the other hand, it may not be thought desirable to impose

additional taxation on the undistributed profits of companies, at all events ; and objection would, no doubt, be raised to imposing (though subject to refund) a very much higher rate of tax than the present maximum on petty firms including all whose income exceeded Rs. 1,000. Even at present rates we have been attacked on this ground, though not always with understanding.

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APPENDIX III.

ESTIMATES ACCORDING TO SIR WALTER LAYTON'S SCHEME.

Statement I.

Central Government.

——	Budget 1929-30 (including Burma).	1929-30 (excluding Burma).	1940-41 (excluding Burma).	
Central Revenue—				
Customs ..	51·22	47·91	54·00(*a*)	(*a*) Growth of revenue +7·50 Loss of revenue on foreign liquor —1·50
Income-tax ..	16·60	14·75	14·00(*b*)	(*b*) Growth of revenue +5·00 Transfer to provinces .. —6·00
Salt	6·35	6·00	..	
Commercial stamps	..	..	2·00(*c*)	(*c*) The estimate in the body of the report is 1·50, but the figure given in the table on page 361 is +2·00.
Other taxes ..	1·19	1·09	1·09	
Total taxes ..	75·36	69·75	71·09	
Railways (net) ..	6·25	6·00	6·00	
Opium (net) ..	2·35	2·35	..	
Currency and mint (net).	2·35	2·35	2·35	
Tributes from Indian States	·74	·74	·74	
Other receipts (net)..	1·17	1·17	1·32	
Total ..	88·22	82·36	81·50	

—	Budget 1929-30 (including Burma).	1929-30 (excluding Burma).	1940-41 (excluding Burma).	
Central expenditure—				
Defence (net) ..	55·10	52·10	45·00(*d*)	(*d*) Saving of 7 crores anticipated. Of this 3 crores will be absorbed by the growth of civil expenditure.
Debt charges (net) ..	12·14	10·14	10·14	
Civil administration (net).	11·56	10·20	13·00(*d*)	
Loss on post office, irrigation, and forests	·39	·39	·33	
Cost of collection ..	3·32	3·12	3·12	
Civil works (net) ..	2·41	2·41	2·41	
Pensions	2·78	2·48	2·48	
Other expenditure (net).	·52	·52	·52	
Surplus from separation of Burma.	..	1·00	..	
Surplus	..	..	4·50	
Total ..	88·22	82·36	81·50	

Statement II.

Provincial Estimates : 1929-30.

	Madras.	Bombay.	Bengal.	U. P.	Punjab.	B. & O.	C. P.	Assam.	Total.
Revenue.									
Land revenue ..	6·21	5·12	3·24	7·10	2·82	1·75	2·45	1·24	29·93
Excise	5·54	3·89	2·25	1·37	1·30	1·90	1·28	·64	18·17
Stamps	2·56	1·77	4·22	1·79	1·21	1·11	·75	·22	13·63
Registration ..	·37	·12	·41	·14	·09	·18	·08	·03	1·42
Scheduled taxes ..	..	·21	·18	..	..	..	..	..	·39
Total taxes ..	14·68	11·11	10·30	10·40	5·42	4·94	4·56	2·13	63·54
Forests (net) ..	·10	·26	·14	·24	·04	·01	·16	·18	1·13
Irrigation (net) ..	·23	—·42	—·04	·09	3·09	—·05	—·32	—·01	2·21
Other sources ..	1·38	3·18	1·07	1·03	2·27	·62	·43	·26	10·24
Total ..	16·39	14·13	11·11	11·76	10·82	5·52	4·83	2·56	77·12
Expenditure.									
Land revenue and general administration	2·83	2·97	1·91	2·46	1·59	1·02	1·04	·50	14·32
Police	2·01	1·79	2·17	1·75	1·22	·85	·62	·30	10·71
Jails and justice ..	1·33	·99	1·49	1·16	1·07	·62	·44	·17	7·27
Debt	1·01	2·06	—·01	·63	—·22	·02	—·05	—·01	3·43
Pensions	·70	·71	·80	·64	·36	·30	·25	·10	3·86
Education ..	2·69	2·11	1·48	2·04	1·75	·92	·59	·33	11·91
Medical and public health	1·44	·91	1·00	·68	·81	·54	·21	·22	5·81
Agriculture and industries	·66	·33	·41	·54	·73	·28	·23	·10	3·28
Civil works ..	2·41	1·64	·98	·52	1·84	·83	·87	·76	9·85
Other	1·46	·90	·96	·66	·62	·49	·34	·23	5·66
Total ..	16·54	14·41	11·19	11·08	9·77	5·87	4·54	2·70	76·10
Surplus + ..	..	..	..	+·68	+1·05	..	+·29	..	+1·02
Deficit— ..	—·15	—·28	—·08	..	..	—·35	..	—·14	..

Statement III.

Provincial Estimates 1940-41.

—	Madras.	Bombay.	Bengal.	U. P.	Punjab.	B. & O.	C. P.	Assam.	Total.
Revenue.									
Revenue as on previous page ..	16·39	14·13	11·11	11·76	10·82	5·52	4·83	2·56	77·12
Income-tax on personal incomes (*a*)..	·87	1·55	1·64	·56	·53	·40	·29	·16	6·00
Surcharge on income-tax (*a*)	·45	·89	·66	·32	·27	·18	·16	·07	3·00
Income-tax on agricultural income (*b*)	·90	·50	·90	·90	·70	·40	·40	·30	5·00
Terminal taxes (*c*) ..	1·46	·66	1·63	1·57	·73	1·18	·49	·28	8·00
Provincial fund (*c*) ..	2·56	1·16	2·87	2·74	1·28	2·08	·86	·45	14·00
Total ..	22·63	18·89	18·81	17·85	14·33	9·76	7·03	3·82	113·12
Expenditure.									
Expenditure as on previous page ..	16·54	14·41	11·19	11·08	9·77	5·87	4·54	2·70	76·10
Surplus	6·09	4·48	7·62	6·77	4·56	3·89	2·49	1·12	37·02

(*a*) Distribution based on income-tax on personal incomes in 1928-29.
(*b*) Guess work.
(*c*) Distribution based on population.
(*d*) It is assumed that loss of revenue due to transfer of commercial stamps (1·50) will be covered by the additional excise duty on Foreign Liquor.
(*e*) It is assumed that normal growth of revenue will cover normal growth in expenditure.

APPENDIX IV.

STATEMENT SHOWING THE ASSIGNMENTS TO THE LOCAL GOVERNMENTS UNDER RULE 15 OF THE DEVOLUTION RULES FOR THE YEARS 1921-22 TO 1928-29.

Provinces.	1921-22.	1922-23.	1923-24.	1924-25.	1925-26.	1926-27.	1927-28.	1928-29.
	Rs.	Rs.	Rs.	Rs.	Rs.	Rs.	Rs.	Rs.
1. Madras	9,73,066	..	10,61,931	1,52,671	4,43,404	4,59,177	6,07,790	5,45,760
2. Bombay	14,07,000	15,31,085	..	..	..	..	..	..
3. Bengal	..	..	..	..	..	..	..	..
4. United Provinces	3,19,137	26,078	..	..	..	..	..	77,365
5. Punjab	..	5,74,955	4,08,808	2,04,544	3,29,445	4,08,058	5,31,379	4,03,527
6. Burma	2,63,188	..	35,157	5,93,989	8,99,099	13,79,472	15,39,684	12,22,182
7. Bihar and Orissa	61,937	2,86,259	2,55,149	2,46,255	2,32,383	3,23,581	3,32,926	4,74,011
8. Central Provinces	29,160	1,49,106	3,38,062	1,97,647	1,66,012	2,16,803	1,78,784	2,22,807
9. Assam	..	1,15,944	4,15,669	5,53,603	5,29,721	4,90,951	5,64,079	6,63,446

APPENDIX V.

DUTY ON FOREIGN LIQUOR (*vide* PARA. 291 OF THE REPORT OF THE INDIAN STATUTORY COMMISSION).

Sir Walter Layton's proposal is that the Government of India should levy an import duty of 30 per cent. *ad valorem* on all foreign liquors, and that it should be open to the provinces to levy such additional excises as they wish. The practical implications of this, and of similar proposals which involve handing over the taxation of foreign liquors to provincial governments have been examined and there appear, *prima facie*, to be a number of obstacles in the way of any successful arrangement on these lines.

2. It is an essential feature of the proposals that the provincial governments should be free to adopt any policy they wish in regard to foreign liquor. At the outset, therefore, the Government of India would have to decide what "foreign liquor" should include. The main head "Liquors" in the tariff includes the following articles :—

Serial No.	Articles.	Rate of duty.	Duty in lakhs.	Average *ad valorem* incidence of duty (1929-30).
				%
1	Ale and other fermented liquors.	8 annas per gallon ..	24	22
2	Denatured spirit ..	7½ per cent.	1	7½
3	Perfumed spirits ..	Rs. 36 per gallon or 15 per cent. whichever is higher.	5	44
4	Preparations containing spirit not tested.	Rs. 30 per gallon or 15 per cent. whichever is higher.		
	Ditto tested ..	Rs. 21-14-0 per *proof* gallon or 15 per cent. whichever is higher.	20	46
5	All other sorts of spirit	Ditto ..	189	112
6	Sparkling wines ..	Rs. 9 per gallon ..	15	50
7	Other wines	Rs. 4-8-0 per gallon ..		
		Total ..	254	

If the Government of India collected only a 30 per cent. duty on those classes on which the incidence exceeds that figure, and duty

at the present rates on other classes, the loss to the central revenues would be :—

	Lakhs.
1. Ale and other fermented liquors ..	*Nil.*
2. Denatured spirit	*Nil.*
3. Perfumed spirits	1
4. Preparations containing spirit ..	7
5. All other sorts of spirit ..	138
6. Sparkling wines 7. Other wines .. }	6
Total ..	152

4. The above tables give a fairly clear idea of what we have to deal with, but from the point of view of classification difficulties the important item is No. 4. This item includes spirituous drugs and medicaments, spirituous toilet and other preparations, and liquors and cordials, but not ordinary spirits like whisky, gin, etc., of which " obscuration " is small. These ordinary potable spirits are assessed under class 5, but the rate of duty on the two classes is the same in order that the revenue under class 5 may be protected. Now, for the purpose of the local excises class 5 (spirits), and liquors which fall in class 4, are treated as foreign liquor, but spirituous drugs and other preparations are not. No licences are required for their sale, no vend fees are collected on them, and no permits are required for their transport. The question at once arises : are they on the one hand to be treated as " foreign liquor " and subjected to provincial excise duties and restrictions, to the very great inconvenience of those who trade in them, or are they on the other hand to be excluded from local excise control, and subjected merely to a central import duty which, if it is lower than the local excise duty, may render them a danger to the excise revenue ?

5. Assuming that a solution could be found for this difficulty, the next objection that arises relates to the administration of different rates of duty, and possibly of different classifications of liquor for duty purposes, in different provinces. The process of assessment to duty would be carried out in the province of consumption, and it would presumably be necessary for each province to establish one or more bonded warehouses into which liquor could be brought after clearance from the custom house at the place of import. This would necessitate in the first place, complicated arrangements for transport in bond all over India, and suitable preventive arrangements might be expensive and inconvenient. It might be possible for the inland provinces to arrange with the maritime provinces for the latter to collect their duty for them ; but it would probably be difficult for them to arrive at an agreement, for rates of duty in two provinces and the method of classification of liquors might differ. Incidentally, a system of inland bonded warehouses of this nature would mean

a complete reorganization of the basis on which distribution is at present undertaken by the trade.

6. The principal wholesale dealers at the great ports at present maintain considerable stocks of duty-paid liquors which can be despatched at a moment's notice to customers in different parts of India. Under the new proposal the local Government of the place to which such liquors were despatched would levy their own excise duty on them, and the wholesale dealer would have to obtain a refund from the local Government of the province of original import. This would lead to further difficulties and complications. Moreover, if the interprovincial transport was confined to liquor travelling under bond from one inland bonded warehouse to another in another province, dealers would often find it impossible to implement urgent orders from up-country customers owing to the delay involved in transport from one warehouse to another, and in assessment at the warehouse in the province of arrival.

7. The danger of smuggling from a province with a low rate of duty into one with a higher rate of duty is too obvious to need emphasizing. The excise departments, of course, already have to deal with this difficulty in connection with country-liquor ; but with the increase in motor-car traffic the danger would be very much greater with foreign liquor, and they would probably find it necessary to maintain an expensive staff all round the borders of each province.

8. A much more important difficulty would arise in connection with Indian States. The present situation, whereby all foreign liquor going into an Indian State has already paid Indian customs revenue, gives rise to no particular trouble. The States' claim to a share in that revenue is merely a part of their claim to a share in the general customs revenues and does not raise any new and separate problem. If, however, all the duty on foreign liquor were to be provincialized, Indian States would have to obtain their supplies of foreign liquor through one or other of the maritime provinces, and they would certainly raise the very strongest objections if they were required to pay duty which was going towards provincial revenues. The alternative of letting States have their liquors free of duty would create an intolerable position for the provincial governments, owing to the danger of smuggling from the States into the provinces. Nor, would any arrangement by which the States agreed to collect duty themselves be satisfactory, owing to the different rates of duty prevailing in the different provinces.

9. The Government of India are discussing these practical difficulties with the provincial governments, and, if they prove to be insuperable, alternative method of giving the provincial governments a share in the revenue from foreign liquors will be considered.

APPENDIX VI.

TAXATION OF TOBACCO (*vide* PARA. 272, VOL. II OF THE REPORT OF THE INDIAN STATUTORY COMMISSION).

Sir Walter Layton's proposal is for a central excise duty levied on factory-produced tobacco and credited to the provincial fund. He makes no specific recommendation regarding other means of taxing tobacco. Those suggested by the Taxation Enquiry Committee were :—

(*i*) An excise duty on factory tobacco.

(*ii*) The levy of a fixed fee based on the estimated outturn of places where cigars, cigarettes or pipe or cigarette tobacco are manufactured by hand.

(*iii*) A system of vend licences leading up to vend monopolies in specified areas.

Clearly any excise duty to be levied on factory tobacco must be uniform and, therefore, central, but nothing would be gained by insisting on uniformity in the fees to be levied on hand manufacture or in respect of vend licences. Such forms of taxation should remain, as they are at present, purely provincial.

2. A well-organized system of vend-fees, particularly if these were based on sales, might prove a fruitful source of provincial taxation, and this is a line of action deserving of further study, although it must be realized that such fees would obviously have to be credited to the province of collection and, therefore, do not exactly fit into Sir Walter Layton's scheme. On the other hand, the prospects of an excise on factory products are not as bright as they appear at first sight. It is true that, as stated by Sir Walter Layton, the consumption of tobacco in the form of cigarettes has grown rapidly. It is not equally true to say that there has been a similar growth in the consumption of pipe tobacco and cigars. Such evidence as is available suggests that these are being steadily replaced by cigarettes.

3. The annual production of cigarettes in India was estimated by the Taxation Enquiry Committee at about 4,500,000,000, and the tobacco used in their production may be estimated at about 10,000,000 lbs. About half of this is imported tobacco which already yields import duty amounting to 75 lakhs per annum. Import duty is also levied on the cigarette paper, which is all imported, and on most of the tinplate and paper and card-board used for packing. The Indian cigarette industry is thus already paying some 80 lakhs of duty annually. This is equivalent to about Rs. 1-13-0 per thousand cigarettes. At present no definite information is available as to the average prices at which these cigarettes are sold, but we believe it to be not much more than Rs. 5 per thousand, so that the

incidence of this taxation is, even now, probably more than half that of the duty on imported cigarettes which averages about 65 per cent. *ad valorem.*

4. Even in these circumstances the Indian factories find it difficult to compete, in all except the very cheapest brands, with imported cigarettes, and the largest manufacturers in India about a year ago decided to postpone indefinitely schemes for the extension of their activities. It is fairly clear, therefore, that any increase in the taxation of the local product, to be remunerative, must be accompanied by an increase in the import duties which at present press most heavily on the cheapest brands imported. The problem, therefore, resolves itself into a decision as to what further increase our import duties can bear without checking consumption to such an extent as to reduce revenue. This question needs further investigation which will involve the collection of much more detailed information than is at present at our disposal, information which will take time to collect. All that can be said at the moment is that Sir Walter Layton's estimate is much too high and that a sum of two crores is not too cautious an estimate of the probable annual revenue, after 10 years, from an excise duty on cigarettes.

5. These considerations raise the question whether in order to avoid a clash between provincial and central interests, it will not be convenient to include in the provincial pool the proceeds of the import duty on all articles subject to a central excise duty collected for provincial purposes. Sir Walter Layton, for obvious reasons, contemplates this course in respect of the salt tax, and it may prove desirable to extend it to other taxes of a similar nature.

6. The cheaper classes of cigarettes are sold in competition with *bidis* which consist of dried country tobacco rolled in leaf instead of paper. There is a very large consumption of this form of tobacco which, formerly, was produced entirely as a cottage industry. Recently factories have been started in certain provinces. No information is at present available as to their output, nor as to the amount of tax that would have to be applied to factory-produced *bidis* to protect adequately an excise duty on cigarettes. These again are matters for which special and detailed enquiries will be necessary. It is, however, unlikely that revenue from this source would contribute largely to the proposed tobacco excise. For the smaller *bidi* factories where mechanical power is not employed it has been suggested that revenue might be derived from a system of manufacturing licences. Such revenue would naturally be credited direct to the provinces in which it is collected.

7. The provinces who have been consulted in the matter do not as a whole favour special taxation of tobacco cultivation.

8. Whatever final conclusions may be reached as to the best method of obtaining further revenue from tobacco, it is doubtful whether anything can be done in this direction in the near future. An agitation against smoking, and in particular against cigarette-smoking, has been a prominent feature of the recent political

situation in many parts of India, and the general economic depression has given the movement considerable force. The import duties on tobacco for the first four months of the current financial year are less than half the normal figure, and any increase in taxation at the present juncture is likely to result in a set-back to the trade which may seriously prejudice the prospect of making it an increasing source of revenue in the future.

APPENDIX VII.

EXCISE DUTY ON MATCHES.

(Vide *paragraph 273, Vol. II of the report of the Indian Statutory Commission.*)

Sir Walter Layton recommends an excise duty at the rate of the present import duty and considers that it should yield about 3 crores. This implies an annual consumption of 20 million gross of boxes. It was only at the beginning of the past decade that the manufacture of matches in India began to supply an appreciable proportion of the demand. Before the war the annual import amounted to some 12 to 15 million gross, consisting mostly of British and Swedish matches. During the war there were very large imports of inferior Japanese matches, and the highest figure reached was about 18 million gross in the year 1915-16. No doubt the inferior quality was largely responsible for the increased consumption. The consumption is bound to react to any considerable increase in price, and it would not be safe to rely on a consumption of more than 15 million gross annually.

2. An important factor which will militate against the success of an excise duty of this nature is its almost inevitable unpopularity. Although, no doubt, there is specially heavy consumption of matches among smokers, the bulk of the match consumption is accounted for by other purposes, and the burden of the greater part of the tax will be fairly evenly distributed over the whole bulk of the population. Thus every objection that can be or has been raised against the salt tax can be raised with almost equal force against a duty on matches. It is a tax, moreover, whose effects will be much more strikingly apparent to the consumer than the effect of a rise in the salt duty for reasons which will appear from what is stated in the following paragraph. Further, it is a tax which can be resisted much more successfully than the salt tax. Economy in the use of matches can be practised in numerous ways and would undoubtedly seriously affect the revenue if any agitation against the tax took place.

3. Sir Walter Layton endorses the view of the Taxation Enquiry Committee that " care should be taken to fix the tax at such a level as to absorb as far as possible (into the Exchequer) the whole of the increase in price ". It is here that the difference in the general standard of living between Indian and European countries makes itself felt. In India a considerable proportion of the matches consumed are sold by the single box, and a further large proportion in lots of three boxes. The present ordinary retail price is one pice per box or two pice for three boxes. It has been calculated that the maximum duty that could be imposed without affecting the price of single boxes is four annas per gross. Such a duty would almost certainly have the effect of raising the retail price of three boxes from two pice to three. Thus while the duty would only bring

in about 37½ lakhs, it would be universally felt. If the duty were at a higher rate than four annas, the retail price per box would probably advance to two pice, and unless the duty were raised to a figure of from Rs. 2-4-0 to Rs. 2-8-0 per gross boxes, the greater part of the increase in price would go into the manufacturer's pockets. In other words, there will clearly be great difficulty in making a tax conform with the condition that it shall not further enrich the manufacturers when it is applied to an article commonly sold retail in quantities whose price is the smallest convenient unit of coinage. It may be observed that the higher rate of duty, which would correspond to a retail price of two pice per box, is higher than the rate imposed in many European countries.

4. There are various methods by which a duty of this kind might be collected. The one favoured by the Taxation Enquiry Committee is the application of a label in the form of a "banderol" which must be broken before a box can be used. There are obvious difficulties in the way of applying this system to imported matches, and other methods are under consideration. Another grave difficulty will be the possibility of manufacture in Indian States, and it seems certain that before the tax can have any chance of success, agreements will have to be reached with the States.

APPENDIX VIII.

TERMINAL TAXES.

1. **The present position.**—Terminal taxes at present constitute a comparatively unimportant factor in local taxation in India, having been imposed in place of octroi by certain local authorities. The Schedule Taxes Rules permit the Legislative Council of any province to pass legislation imposing an octroi or authorizing any local authority to impose such a tax. Where a terminal tax is concerned, similar power may be exercised in the cases of those local areas only which levied an octroi prior to the 7th July 1917. To the imposition of a terminal tax in any other local area the sanction of the Governor General in Council is required. Such sanction has on occasion been accorded, while there have been a number of examples of the conversion of octroi into terminal tax : but the amount of revenue raised by terminal taxes constitutes a relatively small proportion of the total sum of approximately 2 crores of rupees now collected by local authorities in the shape of terminal taxes and octroi.

2. **Sir Walter Layton's proposals.**—Sir Walter Layton recommends the levy of a terminal tax for provincial purposes at every railway station in India. This tax would apparently be collected by railway officials ; and it would be supplemented, where necessary, by a like impost on river-borne traffic. Sir Walter considers that road-borne traffic is not at present a sufficiently serious competitor with railway traffic to require similar treatment. It is not clear whether it is intended to superimpose the new tax upon the octroi and terminal taxes already levied by local bodies or to absorb the latter in it. Absorption would obviously facilitate administrative arrangements, but it would involve the necessity of compensating the authorities concerned for the resulting loss of revenue. Finally, it should be stated that Sir Walter is not inclined to regard the proposed tax as a permanent feature of India's financial system ; he supports it as a temporary measure, suited to the country's present stage of economic development.

3. **General effect of the tax upon Railway Finance.**—In whatever shape the proposed tax were levied, it is quite clear that it would amount to a surcharge upon the cost of transportation. So far as rail-borne traffic is concerned, it would constitute a subvention from the railway revenues of the central Government to the revenues of the various provinces. Incidentally, if immediately imposed, it would operate to prevent the reduction of fares and freight rates, the urgent need of which Sir Walter Layton emphasizes in another part of his report. Assuming that stores, fuel, etc., carried for railway purposes would be exempted from liability, a revenue of 8 crores from the proposed tax would involve an addition of approximately 15 per cent. to the present cost of transportation. It is not suggested that this is a conclusive argument against the imposition of the tax ; though it would doubtless be pressed by company-owned and company-managed lines. Assum-

ing that the central Government is to surrender to the provinces such portion of its revenues as may be found to be in excess of its requirements, it may be both convenient and justifiable to give up a portion of railway revenues and even to increase the costs of transportation in order to create a margin for surrender. The state railways in India are at present singularly free from taxation ; since they are neither burdened with heavy local rates nor assessed to income-tax on their profits. On grounds of abstract principle, it would not be improper to raise railway rates to a height which would yield not only a fair interest on borrowed railway capital but also a fair contribution to general taxation. Rates must, however, be fixed with due regard to their effects upon traffic ; and it is more than doubtful whether the cost of transportation could now be raised to the height contemplated by Sir Walter Layton without serious results upon the working of the railway system as a commercial concern.

4. **Effects of the tax upon railway traffic.**—Apart from the actual surrender of railway revenue, there is ground for supposing that the imposition of a provincial tax of this nature might have deleterious effects upon railway traffic. It would be undesirable to favour short, as opposed to long, distance traffic by exempting it from the tax. Unless, however, it were exempted, its taxation must inevitably lead to the diversion of traffic from the railways to the roads. As long as the proceeds of a terminal tax accrue direct to a local authority that authority may be trusted to make some sort of attempt to collect on traffic so diverted, and by so doing to discourage diversion. If the tax became provincial, the incentive to such efforts would be largely lacking. Similarly, there would, in the case of goods carried by river and particularly by country boat, be greater opportunities of evading a terminal tax ; and this also would tend to create a diversion of traffic. In maritime provinces, there might be similar diversion to coasting or other vessels. Again, the fixation of freight rates is a scientific proceeding, and, if it were conducted without detailed knowledge of local conditions, the results upon traffic might be serious. Finally, the desire to avoid double taxation would operate to decrease the traffic to and from the present local distributing centres.

5. **General conclusions.**—The general position may be summed up by stating that, if the central Government is to surrender to the provinces such part of its revenue as may be surplus to its requirements, there is no theoretical objection to the surrender of surplus revenues derived from the railway system. The possibility of creating a railway surplus by the enhancement of transportation charges would, however, require careful investigation before it could be held to be established. On the other hand, the particular method of effecting such a surrender which is proposed by Sir Walter Layton is liable to produce disastrous effects upon the volume of traffic borne by the railways and, therefore, upon their gross revenues. It has been suggested, as an alternative to Sir Walter Layton's proposal, that the terminal tax, though collected provincially, should remain a source of local authorities ' revenue ; the proceeds being distributed by local Governments to the local

authorities under their control. This would assist provincial finances by relieving the budgets of the local Governments of certain cash contributions which they now make to their local bodies. This proposal might obviate difficulties in connection with the treatment of the terminal taxes and octroi at present levied by local authorities ; but it would, in all essential points, be open to the objections urged against the provincial tax.

6. **Assam.**—While the foregoing objections are strong against the introduction of terminal taxes as a general source of provincial revenue, it would be possible to argue in favour of their institution, as a special measure, in special circumstances such as exist, for example, in the province of Assam. The Government of Assam have pointed out, first, that neither octroi nor terminal tax has yet been introduced by any local authority within the province ; secondly, that it is in urgent need of the proceeds in order to finance the development of internal communications, thereby increasing the volume of the trade and of railway traffic ; thirdly, that it is in a position to exercise effective control over river-borne traffic, which is approximately equal in volume to that carried by rail ; and, fourthly, that the province is situated at the end of the railway system, so that the tax, if imposed upon imported goods only, could not operate as a transit duty. These arguments are not without force. The circumstances of this province are special, and there is reason to hope that a proper utilization of the proceeds of such taxes might operate to increase, rather than diminish, railway traffic within its borders. The question requires further investigation in detail, which it is proposed to undertake. Pending the results of such investigation, the question whether the tax should be imposed upon exported goods as well as upon imports and local traffic may be regarded as open.

7. **Bihar and Orissa.**—The Government of Bihar and Orissa also have represented their desire to impose terminal taxes for provincial purposes. In this case, the special considerations urged by Assam have no applicability ; although it is true that such taxes have not yet been levied by local authorities in the province. The general objections to the taxes as a provincial impost are applicable in this case. Their development as a source of municipal revenue must be governed by the policy which may be adopted, in this connection, for India as a whole.

8. **The maintenance of terminal taxes as a legitimate form of taxation by local authorities.**—As already explained, terminal taxes can at present be authorised by a local legislature, as a method of financing local bodies, wherever an octroi was in force on the 6th July 1917 ; and can be levied in other local areas with the special sanction in each case of the Governor General in Council. It is a matter for consideration whether this position should be stereotyped under the new constitution, and the question is engaging the attention of the Government of India. It has long been recognized that neither a terminal tax nor an octroi constitutes an ideal form of taxation The former is apt to become little more than a transit

duty ; while an octroi, even where it escapes this character, offers unlimited opportunity for leakage of revenue, and frequently operates to hamper and restrict trade. On the other hand, indirect taxation of this kind is undoubtedly the least unpopular form of taxation with the Indian public ; and its replacement by direct taxation yielding equivalent proceeds would be a matter of grave difficulty. These points will be borne carefully in mind when the question is investigated. If, however, either terminal tax or octroi is retained as a legitimate means of local taxation, it will be essential to reserve to the central Government well-defined powers of direction and control. There are three main purposes to be served by such control. In the first place, the central Government must preserve for itself the possibility of preventing the imposition of a tax which will trench upon a central source of revenue, though control in such cases should not be exercised with undue rigidity ; secondly, the powers of local authorities to tax the central Government itself must be strictly limited ; thirdly, there must be authority to forbid the imposition of taxation which would be contrary to the obligations undertaken by the central Government in commercial treaties. With regard to the third of these points attention is invited to paragraph 17 of the memorandum relating to financial relations between the Government of India and the provincial governments which was prepared by the Government of India for the Indian Statutory Commission.

APPENDIX IX.

MEMORANDUM BY THE GOVERNMENT OF INDIA, FINANCE DEPARTMENT DATED THE 11TH JULY 1930, ON THE FINANCIAL ASPECTS OF THE SEPARATION OF BURMA.

	PARAS.
I.—Effect on revenue and expenditure of the Government of India	1—8
II.—Effect on currency arrangements	9—14
III.—Miscellaneous	15
ANNEXURE I.—Effect on Government of India revenue from duty on silver.	
ANNEXURE II.—Memorandum on paragraphs 6—9 of Appendix to Part VIII of the Commission's report.	

I.—*Effect of separation on the revenue and expenditure of the Government of India.*

In paragraph 222 of their report the Commission say :—

> " Though the actual settlement between the two countries must be determined by subsequent negotiations, we are here concerned to note and endorse Sir Walter Layton's general conclusion that separation could fairly be effected in such a way as to do no financial injury to either country and to leave Burma with adequate resources for her present needs and a balance for development purposes in excess of that which she obtains to-day ".

The conclusions arrived at by Sir Walter Layton, and the various assumptions made by him, are examined in the following paragraphs :—

2. In paragraph 3 of the appendix Burma's contribution to defence has been put at 3 crores, and it has been assumed that the whole amount of this contribution will be a deduction from India's military expenditure. The amount taken seems reasonable, but naturally it is only a rough estimate and the actual contribution fixed may be very different. Moreover, it is not certain that the whole of Burma's expenditure on defence will be a deduction from India's army expenditure, though, if the arrangements contemplated in paragraph 221 of the Commission's report are made, this will be the case. The Burma Government in paragraph 16 of the memorandum on separation which they prepared for the Commission put the contribution for defence at 123 lakhs, *i.e.*, roughly the actual expenditure

now incurred in Burma. Clearly, the estimate of the Burma Government is too low, but it is possible that Sir Walter Layton's estimate will prove to be too high. In any case the figure of 3 crores is problematical, and the possibility of a lower figure has to be contemplated in considering the effect on the Government of India finances.

3. In paragraph 4 of the appendix Sir Walter Layton puts Burma's share of India's debt at 30 to 35 crores with a net interest and sinking fund charge of approximately 2 crores a year. Nothing is said about the capital expenditure in Burma, *e.g.*, the capital at charge of the Burma railways, the idea being apparently that the Burma Government would take over the capital commitments of the Government of India in Burma on terms which would involve no loss to India. The Burma Government in their memorandum on separation put Burma's share of the unproductive debt of India at 24 crores and assumed an annual payment of 122 lakhs to cover interest and sinking fund charges. There, again, the figure of 2 crores is problematical, and the possibility of a lower figure has to be contemplated.

4. On the revenue side, Sir Walter Layton makes the following assumptions :—

(*a*) Indo-Burmese trade will become subject to existing customs duties with certain exceptions noted below.

(*b*) India will impose a duty on kerosene imported from Burma at the same rate as on kerosene imported from other countries, and an import duty of 4 annas on motor spirit imported from Burma. (The financial effect of this is worked out on 1928-29 figures but allowance is made for the reduction effected in the last budget in the import duty on kerosene at the end of paragraph 10.)

(*c*) Burma will repeal protective import duties now in force.

(*d*) Burma will impose the existing export duty on rice sent to India. (The figure of 60 lakhs given in paragraph 7 should be reduced to 45 lakhs on account of the reduction in export duty in the last budget.)

These assumptions are reasonable, but it is possible that the tariff arrangements between India and Burma will be different and that Indian revenues may suffer more than is estimated.

5. To complete the picture one further assumption has to be made, *viz.*, that India would impose an import duty of 4 annas an ounce on silver imported from Burma. Annexure I to this memorandum shows that if this is done, the Government of India revenue from duties on silver will be practically unaffected, while the Government of Burma would obtain very little from an import duty or an excise duty on silver.

6. Nothing is said by Sir Walter Layton about the loss on the working of the posts and telegraphs in Burma. The loss in Burma would be about 5 lakhs per annum and the deficit on the working of the Government of India posts and telegraphs would be decreased by a corresponding amount. As regards railways, the annual gain to the Burma Government will be about 50 lakhs as against 25 lakhs

assumed by Sir Walter Layton. The railway revenues of the Government of India would also a corresponding amount, but assuming that the present arrangements for contributions from railway revenues remained unchanged, the effect on general revenues would not be large.

7. From paragraph 11 of the appendix it is clear that Sir Walter Layton realizes that his assumptions may be wide of the mark, for he indicates that India may lose by the separation. In these circumstances the Finance Department consider that it would not be safe to accept at present the Commission's finding that separation could fairly be effected in such a way as to do no financial injury to India. They would, however, go so far as to say that separation could fairly be effected in such a way that the revenue loss to India would not be of sufficient magnitude to make it a factor of great importance in considering the *pros* and *cons* of separation. It is fairly clear that a special committee will have to be appointed to work out the details of the financial settlement.

8. The Finance Department accept the views of the Commission on Burma's credit in the event of separation given in the second half of paragraph 222 of the report.

II.—*Effect of separation on currency arrangements.*

9. If Burma is separated from India, the adoption of a different currency system by Burma has to be contemplated. The Government of Burma might adopt one of the three following courses :—

(*a*) They might retain the Government of India currency in the same way as Iraq up to the present has used the Government of India currency. In view of the close trade connection between Burma and India, and the fact that the people of Burma are accustomed to the rupee currency, there would be a good deal to be said in favour of this course. It is possible, however, that the Burma Government will favour a currency system which would be semi-dependent on the Indian currency system as suggested in (*b*) below or completely independent of the Indian currency system.

(*b*) The Government of Burma might adopt a system similar to that of Ceylon which is briefly that the rupee is the monetary unit and its exchange value is the same as in India, namely, 1*s.* 6*d.*, but the Ceylon Government has its own note issue and its own subsidiary coin. Definite information is not available regarding the reserves kept by the Ceylon Government against this note issue, but the reserve is presumably composed partly of silver rupees and partly of securities of the Government of India, though there may be securities of the Ceylon Government in addition. Such a system would avoid a definite break with the past, and would retain the rupee as the standard coin—a point which might be of considerable importance, especially in the backward tracts.

It would also avoid exchange fluctuations between Burma and India and would, therefore, tend to facilitate trade.

(*c*) The currency system of Burma might be completely separated from the currency system of India, and although it is probable that the Government of Burma would have a coin corresponding to the rupee as the monetary unit, and that the exchange value of the monetary unit would be 1*s.* 6*d.*, the Government of Burma or a bank to whom they might entrust the work would be responsible for maintaining the exchange value of the monetary unit quite independently of the Government of India.

10. If either of the alternatives in paragraphs 9 (*b*) and 9 (*c*) were adopted, Indian currency now in circulation in Burma would be replaced by currency issued under the authority of the Burma Government and would have to be repatriated. The arrangements for this repatriation would depend on the system adopted by the Government of Burma, and it is necessary to examine briefly what these arrangements should be.

11. If a system on the lines indicated in paragraph 9 (*b*) above were adopted, all the subsidiary coin and the notes now in circulation in Burma would be replaced by new subsidiary coin and new notes. If no special arrangements were made, these subsidiary coin and notes could be shipped to India, and full currency value could be obtained for them. Such a procedure would not be fair to India for the reasons given below. As there are essential differences in the position regarding the subsidiary coin and the position regarding the notes, they will be dealt with separately :—

(*a*) *Subsidiary coin.*—As the profit on the issue of nickel and copper coin is taken to revenue in the year in which it is issued, the profit on the nickel and copper coin now in circulation in Burma has already been credited to the revenues of the Government of India and has been used for the common purposes of India and Burma. The profit on the coinage of small silver coin is dealt with in the same way as the profit on the coinage of silver rupees. In paragraph 12 (*a*) below it is shown that no profit has accrued to the Government of India on the coinage of silver apart from sums that have already been taken to revenue. It would be unfair to India if the Government of Burma were to withdraw subsidiary coin from circulation, obtain its full currency value from the Government of India, and issue in its place a fresh subsidiary coinage on which they would make a large profit, while the Government of India would lose a corresponding amount on the subsidiary coin withdrawn from circulation. The most, therefore, that the Government of Burma would be entitled to demand from the Government of India would be that the Government of India should supply to the

Government of Burma new subsidiary coinage in exchange for the subsidiary coinage withdrawn from circulation. In other words, the Government of Burma could either have their new subsidiary coinage executed at a Government of India mint free of charge, or they could demand the bullion value of the subsidiary coinage withdrawn from circulation *plus* the cost of recoining it.

(*b*) *Notes.*—As the profit on the note issue is a recurring item, the Government of Burma would be entitled to payment for the full exchange value of the notes repatriated, and the main question to be settled would be the form which this payment should take. Assuming that the reserve maintained by Burma would consist of rupees and securities of the Government of India, it would be a simple matter to make payment in these forms in the proportion which might be desired by Burma. If it were decided that a part of the reserve should be held in securities of the Government of Burma, then to this extent payment for notes repatriated might take the form of a decrease in the amount of the debt of the Government of Burma to the Government of India.

12. If the Government of Burma were to adopt a completely independent currency system on the lines indicated in paragraph 9 (*c*) above, rupees would have to be repatriated in addition to subsidiary coin and notes. The position regarding the subsidiary coin would be the same as that indicated in paragraph 11 (*a*) above ; rupees and notes are dealt with below :—

(*a*) *Silver rupees.*—The profit on the coinage of silver coin which has accrued since the gold exchange standard was established, has been credited to the gold standard reserve. During the last few years the interest on the gold standard reserve has been taken to revenue, and in so far as the interest on the gold standard reserve has been taken to revenue, Burma has already shared in the advantages obtained from the profits on the coinage of the rupees. The present position is that although we have incurred large losses on the sale of silver obtained from melted coin and these losses have not been debited to the gold standard reserve, the amount of the gold standard reserve is not sufficient to cover the difference between the bullion value and the exchange value of the silver held in the paper currency reserve. As the gold standard reserve does not cover our prospective losses on the sale of silver, it may be said that apart from interest on the gold standard reserve already credited to revenue no profit has accrued from the coinage of silver, and that a loss will probably eventuate. The most, therefore, that the Government of Burma would be entitled to demand from the Government of India would be the bullion value of the rupees withdrawn from circulation and repatriated *plus* the cost

of coinage of the currency which would replace these rupees.

(*b*) *Notes.*—Although Burma would be entitled to payment for the full exchange value of repatriated Government of India notes, there would clearly have to be made a definite arrangement as to the form in which this payment should be made. Otherwise the Burma Government might ship these notes to India, buy sterling with them and obtain full sterling cover for their new note issue at the expense of the sterling reserves of the Government of India. A fair arrangement would seem to be that the Burma Government should be paid in sterling an amount which would bear the same proportion to the total amount payable as the sterling and gold reserves of the Government of India (including the gold standard reserve) bear to the total note issue of the Government of India. Such an arrangement would give the Burma Government the same proportionate sterling cover for their note issue as was held by the Government of India, and as there would be a reduction in the Government of India note issue corresponding to the amount of the new Burma Government issue, the Government of India's holding of gold and gold securities would not be proportionately diminished. The remainder of the amount due to the Burma Government might be paid partly in the form of silver if the Burma Government desired to have silver, and if not, wholly in the form of a reduction of the amount of the debt of the Government of Burma to the Government of India.

13. From the above brief outline it is clear that one of the conditions of the separation of Burma from India should be an arrangement which would safeguard the interests of India in the event of Burma adopting a new currency system. It is not easy to devise a formula which could be included in the legislation which will presumably deal with the separation of Burma, but a safeguarding clause on the following lines might be sufficient :—

> " If the Government of Burma adopts a new currency system, payment by the Government of India to the Government of Burma for Indian currency withdrawn from circulation in Burma and repatriated to India shall be limited to an amount which will represent the cost to the Government of Burma of replacing the currency withdrawn from circulation and shall be made in such a manner that the gold and sterling reserves of the Government of India would not be proportionately weakened."

Presumably, the Act would name some authority, probably the British Government, as the authority to decide differences between the Government of India and the Government of Burma which might arise in carrying out the provisions of the Act, and this authority would have to be the authority to decide the extent and the form of

payments to be made by the Government of India to the Government of Burma for currency repatriated.

14. In the above paragraphs the assumption has been made that the currency arrangements in India remain as at present. In the event of the Government of India note issue being replaced by a reserve bank issue before a new currency system is introduced in Burma, special arrangements regarding Burma would probably have to be made at the time of handing over the note issue to the reserve bank. Whatever currency system might eventually be adopted by Burma, presumably no change would be made until some time after separation was effected. During this period the Indian Currency Act and Indian Coinage Act would have to apply to Burma.

III.—*Miscellaneous.*

15. Some of the more important questions which the Finance Department will have to consider, if it is decided to separate Burma from India, are dealt with below :—

(1) *Ways and means.*—Presumably, the Burma Government would arrange with the Imperial Bank of India to conduct their business on much the same lines as the bank now conducts the business of the Government of India. The Burma Government would take over control of the resource work at treasuries, where the Government of India should probably arrange to maintain currency chests as long as Burma used Indian currency.

(2) *Government of India securities held in Burma.*—At present a considerable volume of Government of India securities are held in Burma, and interest is payable at any treasury in Burma. Clearly, it is desirable that Burma holders of Government of India securities at the time of the separation should have the same facilities for drawing the interest as they now have, and it would be desirable to arrange with the Government of Burma for the continuance of these facilities, at any rate as regards securities held in Burma at the time of the separation, though it will probably be undesirable to allow further transfers from India to Burma. The Government of Burma could be given a commission on the amount of interest paid.

(3) *Post office cash certificates.*—On separation, presumably the issue of Government of India post office cash certificates in Burma would cease, and the Government of Burma would issue certificates of their own. As, however, the certificates previously issued would represent an obligation of the Government of India, and as it would be a very complicated matter for the Government of Burma to attempt to take over this obligation, an arrangement would have to be arrived at by which the Burma Government would arrange for the payment of the certificates as they mature at their post offices and debit the amounts to the Government of India. Probably they would have to be given a commission for this service.

(4) *Post office savings bank deposits.*—In this case the simplest method of procedure probably would be for the Burma Government to take over the savings bank deposits from the Government of India, the debt of the Government of Burma to the Government of India

being reduced accordingly. It might be said that the depositors would have reason to complain of such a transfer, because their deposits would be transferred from an institution backed by the credit of the Government of India to an institution backed only by the credit of the Government of Burma. This difficulty could be got over by giving depositors notice some time in advance that their deposits were to be transferred, so that they would have an opportunity of withdrawing them if they desired to do so.

(5) *Provident fund deposits.*—Presumably, the provident fund deposits belonging to officers of the Burma Government and any officers of the central Government which may be transferred to the Burma Government would be taken over by the Government of Burma, who would also take over the incidental liabilities. The total amount of deposits would be presumably deducted from the debt of the Government of Burma to the Government of India.

(6) *Other deposits.*—At present all deposits received in Burma are taken into the balance of the Government of India. Presumably, the Burma Government would take over these deposits with the incidental liabilities.

(7) *Family pension funds.*—Presumably, officers serving under the new Burma Government would not be eligible to subscribe to the family pension funds now administered by the Government of India, but the Government of Burma would start similar funds of their own. Arrangements would have to be made to transfer officers' subscriptions from the Government of India funds to the new funds of the Government of Burma with probably a contribution from the Government of India to cover the period during which the officer was in the service of the Government of India. Here, again, the total amount transferred could be taken in reduction of the debt of the Government of Burma to the Government of India.

(8) *Income-tax.*—Most of the trade in Burma is conducted by Indian or European firms which are at present assessed to tax either in Burma or in India on the total income from their operations in both countries. The question of double income-tax will, therefore, be of considerable importance.

(9) *Staff.*—The conditions on which the Government of India's staff employed in Burma will be taken over by the Government of Burma will have to be worked out in detail.

(10) *Railways.*—The terms on which the Burma railways will be taken over will have to be worked out very carefully. They are the most profitable portion of the Government of India railway system, and even if it is decided that the Burma Government should take in future the full profits regardless of losses which may have occurred in the past, *i.e.*, that they would merely have to pay to the Government of India the capital at charge on these railways, the rate of interest which the Government of Burma should pay to the Government of India on the capital at charge will be difficult to determine, as the capital has been raised over a period of years at different rates of interest.

(11) *Posts and telegraphs.*—The terms on which the assets of the Posts and Telegraphs Department will be taken over by the Burma Government will have to be worked out in detail.

(12) *Government of India lands and buildings.*—Here again a difficult question will arise as to the terms on which the lands and buildings at present in possession of the Government of India should be handed over to the Government of Burma.

ANNEXURE I. (*See* para. 5.)

Production of silver in Burma.

(In thousands of fine ounces.)

1924	5,288
1925	4,832
1926	5,104
1927	6,004
1928	7,405
1929	7,290

Exports of silver from Burma.

——	India.	Straits Settlements.	Federated Malay States.	Mauritius.	Total.
1924-25	5,430	..	..	..	5,430
1925-26	4,791	15	16	..	4,822
1926-27	4,627	41	56	..	4,724
1927-28	6,411	18	37	..	6,466
1928-29	7,548	32	39	344	7,963

Imports of silver into Burma.

——	India.	United Kingdom.	Hong Kong.	Federated Malay States.	Total.
1924-25	..	..	..	..	..
1925-26	..	3	..	7	10
1926-27	2	..	..	..	2
1927-28	9	72	19	..	100
1928-29	5	4	..	..	9

It will be seen from the above figures that the imports of silver into Burma are negligible, and that almost the whole of the silver produced in Burma is exported. As figures of production by official years are not available, it is not possible to calculate the actual amount of silver consumed in Burma, but the above figures show

that the amount is very small. In the circumstances the Government of Burma will not find it profitable to impose import and excise duties on silver.

So far as India is concerned, if India levies an import duty of 4 annas an ounce on silver imported from Burma, the Government of India will lose very little as almost the whole amount of the silver produced in Burma is exported to India. The Government of India will lose only the excise duty on silver consumed in Burma, but the figures show that this amount is negligible.

ANNEXURE II.

MEMORANDUM ON PARAGRAPHS 6 TO 9 OF APPENDIX TO PART VIII OF THE STATUTORY COMMISSION'S REPORT. *(Pages 282 to 284.)*

Separation of Burma and customs revenues.

This memorandum deals with the effect of levying import duties in Burma and in India on Indo-Burmese trade. The trade in kerosene and petrol is excluded from this examination. Sir Walter Layton's estimate is that Burma will obtain 116 lakhs from import duty on goods from India, and that India will obtain 25 lakhs from import duty on goods from Burma (paragraph 9 of the appendix, pages 283 and 284). This estimate is based on the assumption that the existing import duties will be applied at both ends (paragraph 7).

2. Four statements are attached :—

(I) Imports of Indian merchandise into Burma.

(II) Imports of foreign merchandise into Burma from India.

(III) Imports of Burmese merchandise into India from Burma.

(IV) Imports of foreign merchandise into India from Burma.

These statements represent the trade for 1928-29, and are taken from tables 7 to 10 in Part II (pages 219—267) of the sea-borne trade and navigation of Burma for 1928-29 (the latest volume available). In each statement the total trade is divided into three groups :—

Free goods,

Goods at special rates of duty,

Goods dutiable at 15 per cent. *ad valorem*.

Deductions have then been made for the intra-provincial trade, *i.e.*, between ports within the province of Burma, and the duty leviable at existing rates on the trade between Burma and India has been estimated.

3. The result of the estimate may be displayed in the following statement :—

	Lakhs.
Duty payable in Burma—	
Indian merchandise	290
Foreign merchandise	24
Total duty ..	314
Duty payable in India—	
Burmese merchandise	95
Foreign merchandise	8
Total duty ..	103

The trade in foreign merchandise will be affected in quite a different way from that in indigenous products. Foreign merchandise, which now goes to Burma from India, has already paid duty in India. In future part will go direct, and the greater part of the remainder will be shipped under claim for drawback, and in either case India will lose the duty. To be on the safe side it would be as well to treat the duty as a debit to Indian revenues, and similarly to debit Burma's revenues with the duty leviable in India on foreign merchandise exported from Burma. We thus obtain the following result :—

	Burma.	India.
Gain	314	103
Loss	8	24
Net gain ..	306	79

4. This result assumes that the trade will remain at its present level. Naturally some depression will follow the imposition of duties, but it is difficult to see how the effect can be as great as is suggested in Sir Walter Layton's figures. A gain to Burma of 240 lakhs and to India of 60 lakhs would not be an extravagant estimate. Sir Walter Layton's figure of 116 lakhs for the gain to Burma is the Burma Government's own estimate, and it has been ascertained that this was merely intended as a safe guess calculated in the following manner. The average duty on imports of foreign goods into Burma in 1926-27 was 17 per cent. An average duty at the guess figure of 8 per cent. (on roughly half the above amount) on Indian goods imported into Burma would yield on the 1926-27 imports 116 lakhs.

5. In dealing with India's customs revenues from existing sources, a flat rate of 2 annas for kerosene has been assumed. Sir Walter Layton, writing no doubt before the introduction of the 1930-31 budget, has taken 2½ annas. At the 2-anna rate for kerosene the gross gain to India will be—

	Lakhs.
Existing excise	190
Additional rate on kerosene	56
Nett duty on other imports from Burma	60
	306

against Sir Walter Layton's figure of 326 lakhs. At the present rate of customs duty on kerosene (2½ annas) India would gain 334 lakhs. On the other hand, this estimate gives a gain to Burma of 997 lakhs against Sir Walter Layton's figure of 873 lakhs.

I.

Coasting imports into Burma—Indian merchandise—Values and duty in lakhs.

——	Gross.	Intra-provincial trade.	Net India-Burma.	Duty.
Total ..	1,543	141	1,402	..
Free goods.				
Animals	3	..	3	..
Books	3	..	2	..
Grain, pulse and flour	134	18	116	..
Hides and skins	1	1	..	..
Machinery	1	..	1	..
Manures	1	..	1	..
Total free ..	142	19	123	..
Total dutiable ..	1,401	122	1,279	..
Articles at special rates.				
Coal	111	..	111	3
Fish, salted	17	..	17	1
Fodder	2	2	..	..
Matches	4	3	1	1
Tobacco	130	9	121	130
Toys	3	..	3	1
Total at special rates ..	267	14	253	136
Ad valorem at 15% ..	1,134	108	1,026	154
Total duty ..	..	..	..	290

II.

Coasting imports into Burma—Foreign merchandise—Values and duty in lakhs.

——	Gross.	Intra Provincial.	Net India-Burma.	Duty.
Total ..	193	84	109	..
Free goods.				
Books	1	..	1	..
Dyes	2	..	2	..
Machinery	15	4	11	..
Total free ..	18	4	14	..
Total dutiable ..	175	80	95	..
Dutiable at special rates.				
Liquors	5	2	3	3
Matches	2	1	1	1
Tobacco	11	4	7	7
Total ..	18	7	11	11
Ad valorem at 15% ..	157	73	84	13
Total duty ..	..	..	..	24

III.

Coasting exports from Burma—Burmese merchandise—Values and duty in lakhs.

——	Gross.	Intra Provincial.	Net Burma-India.	Duty.
Total ..	3,317	117	3,200	..
Kerosene and petrol	885	15	870	..
Total excluding kerosene and petrol	2,432	102	2,330	..

—	Gross.	Intra Provincial.	Net Burma-India.	Duty.
Free goods.				
Grain, pulse and flour	1,760	9	1,751	..
Hides and skins	8	..	8	..
Stick lac	51	..	51	..
Cotton, raw	1	..	1	..
Total free ..	1,820	9	1,811	..
Total dutiable excluding kerosene and petrol	612	93	519	..
Dutiable at special rates.				
Fodder	2	1	1	..
Matches	18	2	16	13
Lubricating oil	34	..	34	3
Tobacco	21	9	12	8
Total (excluding kerosene and petrol) dutiable at special rates ..	75	12	63	24
Ad valorem at 15% ..	537	81	456	71
Total duty (excluding kerosene and petrol)	..	..	..	95

IV.

Coasting exports from Burma—Foreign merchandise—Values and duty in lakhs

—	Gross.	Intra Provincial.	Net Burma-India.	Duty.
Total ..	122	75	47	..
Free goods.				
Machinery	5	4	1	..
Total free ..	5	4	1	..
Total dutiable ..	117	71	46	..

—	Gross.	Intra Provincial.	Not Burma-India.	Duty.
Dutiable at special rates.				
obacco	3	2	1	1
Total at special rates ..	3	2	1	1
Ad valorem at 15% ..	114	69	45	7
Total duty ..	..	..	..	8

List of Enclosures.

1. Letter to all local Governments of Governors' Provinces (except Burma), No. F.-67|30-R., dated the 24th June 1930.
2. Letter to the Chief Secretary to the Government of Burma, No. F.-67|30-R., dated the 24th June 1930.
3. Letter to the Registrar, High Court, Calcutta, Appellate Side, No. F.-67|30-R., dated the 24th June 1930.
4. Letter to the Chief Commissioners, Coorg, Baluchistan, Delhi, Ajmer-Merwara, No. F.-67|30-R., dated the 24th June 1930.
5. Letter to the Chief Commissioner, North-West Frontier Province, No. F.-108|30-R., dated the 2nd August 1930.
6. Letter from the Government of Madras, No. 978, dated the 11th August 1930.
7. Letter from the Government of Bombay, No. 1|161, dated the 13th August 1930, and enclosures.
8. Note by His Excellency the Governor of Bombay.
9. Telegram to the Government of Bombay, No. 2940-S., dated the 31st August 1930.
10. Telegram from the Government of Bombay, dated the 7th September 1930.
11. Letter from the Government of Bengal, No. 219-A.C., dated the 15th August 1930, and enclosures.
12. Letter from the Government of Bengal, No. 222-A.C., dated the 22nd August 1930, and enclosure.
13. Letter from the Government of the United Provinces, No. 4949-C., dated the 23rd August 1930, and enclosures.
14. Letter from the Government of the Punjab, No. 4706-S. Reforms, dated the 14th August 1930, and enclosures.
15. Letter from the Government of the Punjab, No. 6504-S. Reforms, dated the 16th September 1930, and enclosures.
16. Letter from the Government of Burma, No. 392-D.-30, dated the 13th August 1930.
17. Letter from the Government of Bihar and Orissa, No. 4368-A.R., dated the 23rd August 1930, and enclosure.

18. Letter from the Government of the Central Provinces, No. R.-15-IV, dated the 12th August 1930.
19. Letter from the Government of Assam, No. Rfm.-8|8801-A.P., dated the 12th August 1930.
20. Letter from the Chief Commissioner, Delhi, No. 7131-Home, dated the 8th August 1930.
21. Letter from the Chief Commissioner, Coorg, No. 2852|11-28, dated the 4th September 1930.
22. Letter from the Chief Commissioner, North-West Frontier Province, No. 3305-P., dated the 28|29th August 1930, and enclosure.
23. Letter from the Chief Commissioner, Baluchistan, No. 3614-P., dated the 14th August 1930.
24. Letter from the Chief Commissioner, Ajmer-Merwara, No. 45-C.|111-C.C.|30, dated the 15th August 1930, and enclosure.
25. Letter from the Registrar, High Court, Calcutta, No. 11741-G., dated the 18th July 1930.

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